

GAVILAN COLLEGE
MEASURE X BOND PROGRAM:
Oversight Shortchanged



2021 Civil Grand Jury
of Santa Clara County

December 16, 2021



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GLOSSARY AND ABBREVIATIONS

§	A symbol used to abbreviate the term section (§) or sections (§§) in legal documents. The symbol is commonly used to specify the applicable section number within legal documents.
AKG	A Kennedy Group is a consulting firm providing program management, compliance and accountability, tracking and reporting, and communication and documentation services to educational institutions and public agencies.
BoardDocs®	A commercially available integrated agenda management platform used by community college districts to manage a committee structure. It serves as a source for the public to obtain agendas, supporting attachments, and meeting minutes.
Board of Trustees	Elected officials who serve the public interest, establish a climate of learning, and monitor the effectiveness of the institution through the policies they create and approve.
Board Resolution	A formal, legal document that solidifies in writing important decisions made by a Board of Trustees.
Bond List Revision	A formal process for managing and tracking changes made throughout a bond construction program. Changes include individual project names, scopes, and budgets, and they must be approved by a governing body.
Bond Measure	An initiative placed on the ballot to be approved or defeated by the voting public, which permits the use of bonds to borrow money and the levy of taxes to pay the debt service. The bonds can be used by community college districts to finance construction or other capital projects.
Brown Act	The Ralph M. Brown Act is a California state law ensuring the public's right to attend, participate, and discuss in meetings of local legislative bodies (including city council, county government, and community college districts). The sections pertaining to the Brown Act are California Government Code §§ 54950 – 54963. See Appendix 3 for a summary of the Brown Act.
Bylaws	Rules and regulations enacted by a body to provide a framework for its operations and management.

CABOC	California Association of Bond Oversight Committees is an independent, non-profit organization which supports the State's Citizens' Bond Oversight Committees with training materials, classes, conferences, and workshops.
CBOC	Formed when a bond is passed, the Citizens' Bond Oversight Committee is an independent body of citizens representing affiliation categories such as a senior citizen group, business community, and taxpayer association. Members have legal authority to examine bond measure expenditures and to oversee the progress of projects tied to the bond. They are mandated to report to and keep the public informed.
Education Code	A collection of California laws related to public schools, which are created or changed by the Governor and Legislature. Local education boards and county offices of education are responsible for complying with applicable code provisions. The sections pertaining to school bonds include §§ 15100 – 17204 of the California Education Code.
Gavilan Joint Community College District	Gavilan Joint Community College District encompasses the southern part of Santa Clara County and the northern part of San Benito County. The District is comprised of Gavilan College and the associated learning facilities that are within the district.
Measure E	A bond measure passed by Gavilan Joint Community College District voters in 2004. Measure E was a facilities improvement bond used to upgrade utilities, renovate classrooms and libraries, provide access for disabled students, improve campus safety, and plan for the future by expanding satellite sites. See Appendix 1 for a summary of the ballot measure.
Measure X	A bond measure that was passed in 2018 and used to fund improvements and capital projects for the Gavilan Joint Community College District.
Proposition 39	A constitutional amendment approved in 2000 to make passing school district bond measures easier. It reduced the threshold required to pass local California school district bond issues from two-thirds to 55%.

INTRODUCTION

The 2021 Civil Grand Jury of Santa Clara County (Civil Grand Jury) studied the creation, management, and execution of voter approved educational construction bond measures. The Civil Grand Jury focused its initial analysis and research on community college districts located within the County of Santa Clara. However, it became evident that the history of the Measure E bond from 2004 (summary attached as [Appendix 1](#)) influenced voter sentiment when Measure X was proposed in 2018 by the Gavilan Joint Community College District (District).¹ A lingering mistrust felt by some District residents was revealed in response to a 2017 survey commissioned by the District. Responses to the survey questions included 61.5% who agreed “[The] District can’t be trusted, they managed [the] last bond and [they] didn’t build what they promised.”² Nearly 60% of respondents agreed that there would be, “No guarantee that money will be distributed fairly, some areas will get more than their fair share than others.”³

This mistrust carried over to the November 6, 2018 election. The subject was front and center in a November 14, 2018 news article in the *Gilroy Dispatch*, “[Santa Clara County] SCC Voters Help Pass Gavilan’s \$248M Bond: New trustees look to build trust between college and [San Benito County] SBC residents.”⁴ A newly elected Trustee was quoted:

“That low approval rating (of Measure X) in San Benito County, given the fact that a major focus of the bond is to provide a satellite campus there, that creates a reason for concern,” said Diaz, who has [previously] provided oversight for over \$500 million in school bond projects. “Throughout my campaign, I’ve been hearing about some of the discontent with how the last bond was allocated. ...Even though (Measure X) passed, for me, we have work to do as a board to reach out to San Benito residents and engage them in a way that improves their level of support for Gavilan.”⁵

¹ Eric He, “Gavilan College President Announces Retirement,” *Patch Media*, October 11, 2021, <https://patch.com/california/gilroy/gavilan-college-president-announces-retirement>.

² True North Research, *Bond Measure Feasibility Survey: Summary Report*, September 22, 2017, p. 28, https://www.gavilan.edu/administration/board/documents/GavilanCollege_BondFeasibilitySurveyReport.pdf.

³ Ibid.

⁴ Scott Forstner, “SCC voters help pass Gavilan’s \$248M bond,” *Gilroy Dispatch*, November 14, 2018, <https://gilroydispatch.com/scc-voters-help-pass-gavilans-248m-bond/>.

⁵ Ibid.

Another recently elected trustee highlighted the challenges from the last bond measure, saying:

“With the passage of Measure E and the promises that were broken, it’s going to be a long process in order to get trust back up from our community,” Gonzalez said. “I don’t believe anything was done intentionally. It’s just a lack of trust that we have to build again. ... We do have to fulfill promises that were made.”⁶

With this report, the Civil Grand Jury aims to educate the public about educational bonds, inform residents about the Measure X bond program, and suggest ways to improve bond oversight. The report exposes support and resourcing gaps that should be rectified to ensure that the Gavilan Joint Community College District’s Board of Trustees support the District’s Independent Citizens’ Bond Oversight Committee in effectively carrying out its work. This report includes 14 recommendations the District should consider to improve the effectiveness, transparency, and oversight of the bond program.

⁶ Forstner, “SCC voters help pass Gavilan’s \$248M bond,” <https://gilroydispatch.com/scc-voters-help-pass-gavilans-248m-bond/>.

BACKGROUND

District Details

Gavilan Joint Community College District (District) is one of 73 districts that make up the California Community College System.⁷ The District's boundaries stretch from the southern part of Santa Clara County down to the northern part of San Benito County, and it encompasses an area of approximately 2,700 square miles. The District's main campus is in Gilroy. [Figure 1](#) below displays the District's boundaries, the satellite learning locations, and the main campus.⁸

The District serves a broad and diverse community. During the 2020-2021 academic year, Gavilan supported 7,257 students with facilities located in two counties.⁹ The assessment of existing facilities and planning infrastructure improvements is essential for a host of reasons. This includes providing student access, a suitable learning environment, and state of the art teaching venues, all while maintaining the safety of students and staff and fostering environmental responsibility. The District uses its master planning process to link its educational goals and strategies to its infrastructure needs, building a framework for planning and growth. In 2018, the District placed a construction bond measure on the ballot to upgrade its existing infrastructure and to build new facilities.



Figure 1. District Map

⁷ Foundation for California Community Colleges, "Facts and Figures," accessed September 29, 2021, <https://foundationccc.org/About-Us/About-the-Colleges/Facts-and-Figures>.

⁸ Gavilan College, "Accreditation 2019 Introduction," accessed September 29, 2021, <https://www.gavilan.edu/administration/accreditation/2019/introduction.php>.

⁹ California Community Colleges Chancellor's Office, "Management Information Systems Data Mart," Annual/Term Student Count Report, Query = Gavilan CCD, Annual Search, Annual 2020-2021, accessed September 29, 2021, https://datamart.cccco.edu/Students/Student_Term_Annual_Count.aspx.

Bond Basics

When community colleges need to make major infrastructure investments, improvements, or repairs, they can seek voter approval of bonds to fund these types of projects. The projects can range from major construction to upgrading aging utility systems. Large sums of capital are raised when a district sells bonds to investors. The proceeds from the sale of educational bonds are in effect a loan to the District to fund construction projects and related costs permitted by law. These loans are repaid over a lengthy period, typically 30 or more years. The loan principal and interest are paid by District residents through county property taxes. However, before those taxes are levied, the bond must be placed on the ballot and approved by 55% of District voters.

Laws governing the management and execution of school bonds are outlined in the California Constitution and the California Education Code.¹⁰ During the November 7, 2000 General Election, voters approved Proposition 39, which was titled, “School Facilities. 55% Local Vote. Bonds, Taxes. Accountability Requirements. Initiative Constitutional Amendment and Statute.”¹¹ The key points are the following provisions:

- Authorizes bonds for repair, construction, or replacement of school facilities and classrooms, if approved by 55% local vote (reduced from the prior requirement of two-thirds approval)
- Accountability requirements include annual financial and performance audits on use of bond proceeds
- Prohibits use of bond proceeds for salaries or operating expenses
- Authorizes property taxes in excess of 1% limit by 55% vote as necessary to pay school bonds¹²

¹⁰ California Constitution, art. XVI § 18, accessed October 1, 2021, https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS§ionNum=SEC.%2018.&article=XVI; California Education Code §§ 15100-17204, accessed October 1, 2021, https://leginfo.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=EDC&division=1.&title=1.&part=10.&chapter=&article=

¹¹ Ballotpedia, “California Proposition 39, Decrease Supermajority from Two-Thirds to 55% for School Bonds Amendment (2000),” accessed October 1, 2021, [https://ballotpedia.org/California_Proposition_39,_Decrease_Supermajority_from_Two-Thirds_to_55%25_for_School_Bonds_Amendment_\(2000\)](https://ballotpedia.org/California_Proposition_39,_Decrease_Supermajority_from_Two-Thirds_to_55%25_for_School_Bonds_Amendment_(2000)).

¹² Ibid.

METHODOLOGY

The Civil Grand Jury attended virtual public meetings hosted by the District's Board of Trustees and the Measure X Independent Citizens' Bond Oversight Committee (Oversight Committee). The meetings were held online due to California's COVID-19 state of emergency provisions. Other sources of information were used to conduct the investigation and provide recommendations to the District. The Civil Grand Jury:

- Analyzed the Measure X ballot initiative proposed and passed by District voters during the 2018 election¹³
- Obtained and reviewed past meeting agendas, minutes, and supporting documentation maintained on the District's BoardDocs® e-governance system¹⁴
- Conducted interviews with stakeholders
- Requested and received supporting documentation
- Examined the Measure X Oversight Committee website
- Attended an annual conference of California Association of Bond Oversight Committees
- Reviewed best practices of other citizens' bond oversight committees

¹³ Gavilan College Measure X Bond, Citizens' Bond Oversight Committee, "Full Ballot Language, November 6, 2018," accessed September 21, 2021, <http://gavilanmeasurex.org/full-ballot-language/>.

¹⁴ Gavilan Joint Community College District, "Board of Trustees," accessed September 21, 2021, <https://go.boarddocs.com/ca/gjccd/Board.nsf/Public>.

DISCUSSION

Measure X: Ballot to Building

Measure X was a ballot initiative introduced by the Gavilan Joint Community College District to the District's voters during the election held on November 6, 2018. The initiative was enacted by the Gavilan Board of Trustees through Resolution 1034 and adopted on July 10, 2018.¹⁵ The resolution served as the instrument to place the initiative on the ballot.

The ballot proposition was titled, "Affordable Education, Job Training, College Transfer and Veteran Support Measure." It detailed to District voters how the bond would be used if approved. The purpose and supporting details were:

To upgrade classrooms, science, healthcare, technology, engineering/career training labs, repair aging facilities, shall Gavilan Joint Community College District's measure authorizing \$248,000,000 in bonds at legal rates, levying 2 cents/\$100 assessed value, \$14,000,000 annually while bonds are outstanding, constructing, acquiring, repairing classrooms, facilities, sites/equipment, Veterans Center, adding a campus in San Benito County, improving local access to affordable education, with citizen oversight, all money locally controlled, be approved?¹⁶

Voter results

On November 6, 2018, District voters were asked to authorize the District to issue bonds worth \$248 million, to be repaid through the collection of property taxes. Passage required at least 55% of voters to approve the measure. The vote count in [Table 1](#) below shows that the San Benito County results for Measure X fell below the 55% threshold. Had the measure been voted on only by San Benito County residents, the ballot measure would have failed. While voter intent is difficult to discern, the Civil Grand Jury learned that some San Benito County residents continue

¹⁵ Gavilan Joint Community College District, Minutes of Board of Trustees Regular Meeting, July 10, 2018, Agenda Item 11. C, "Resolution 1034," accessed October 1, 2021, <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=AZW74683B388>.

¹⁶ Ballotpedia, "Gavilan Joint Community College District, California, Measure X, Bond Issue (November 2018)," accessed October 1, 2021, [https://ballotpedia.org/Gavilan_Joint_Community_College_District,_California,_Measure_X,_Bond_Issue_\(November_2018\)](https://ballotpedia.org/Gavilan_Joint_Community_College_District,_California,_Measure_X,_Bond_Issue_(November_2018)).

to feel slighted by the earlier bond program (Measure E) results. It may be the case that this Measure X vote reflects that feeling.

County	Yes		No	
	Votes	Percent	Votes	Percent
Santa Clara ¹⁷	26,799	62.47%	16,103	37.53%
San Benito ¹⁸	10,167	54.02%	8,655	45.98%
<i>Combined</i>	<i>36,966</i>	<i>59.89%</i>	<i>24,758</i>	<i>40.11%</i>

Table 1. Measure X Vote Breakdown

Five-year project prioritization plan

Measure X detailed the projects associated with the measure and described to voters how the bond proceeds would be used. A project list is maintained on the Measure X website, supplying additional project definition, status, and budget detail to keep the public informed about the intended projects.¹⁹ [Table 2](#) below is a project list with campus locations to illustrate the rank order used to prioritize the bond measure’s projects.²⁰

¹⁷ Santa Clara County Registrar of Voters, “November 6, 2018 General Election, Measure X-Gavilan Joint CCD-School Bond-55% Vote,” December 28, 2018, https://results.enr.clarityelections.com/CA/Santa_Clara/92418/Web02.222611/#/cid/140.

¹⁸ San Benito County Registrar of Voters, “Election Results November 2018 General, Measure X,” accessed October 2, 2021, <http://sbcvvote.us/registrar-of-voters/results-november-2018/>.

¹⁹ Gavilan College Measure X Bond, Citizens’ Bond Oversight Committee, “Measure X Project List,” accessed October 3, 2021, <http://gavilanmeasurex.org/project-info/>.

²⁰ Ibid.; Gavilan College, Measure X Facilities Bond, “Resolution 1034, Resolution of the Board of Trustees of Gavilan Joint Community College District Ordering an Election and Establishing Specifications of the Election Order,” accessed October 3, 2021, <https://www.gavilan.edu/administration/Bond/BOND%20Res%201034.pdf>.

Priority	Project	Campus
1	San Benito County Campus	San Benito
2	Central Plant/Water Treatment	Gilroy
3	Science, Technology, Engineering, and Math Center	Gilroy
4	Library and Student Resource Center	Gilroy
5	Coyote Valley Modular Building	Coyote Valley
6	Visual and Performing Arts Center	Gilroy
7	Repurpose Art Building	Gilroy
8	Student Services	Gilroy
9	Kinesiology and Athletics Field	Gilroy
10	Administrative Services	Gilroy
11	Site Improvements	Gilroy
12	Student Center Remodel	Gilroy
13	Replace Water Supply System	Gilroy

Table 2. Facilities Priority Plan

Oversight Framework

The California Education Code requires school districts, with a voter-approved construction bond, create a Citizens’ Bond Oversight Committee. The law requires the appointment of this independent committee within 60 days of the election results.²¹ This committee must have a minimum of seven members representing different community affiliation groups, which is detailed in the [Oversight Committee Membership](#) section of this report. Oversight by this independent committee satisfies the accountability requirements in Proposition 39 and the commitment the District made to voters to have mandatory oversight and accountability protections on bond expenditures.

The mandate of the Oversight Committee is to ensure that the District manages and executes the bond measure program in accordance with California law, voter intent, and the Oversight Committee bylaws. The Oversight Committee is responsible for informing the public about how bond (taxpayer) monies are spent. The Oversight Committee does this by reviewing expenditures and receiving conclusions from an independent auditor about the bond program’s financial

²¹ California Education Code § 15278 (b), accessed October 4, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC§ionNum=15278.

reporting and compliance. The Oversight Committee is required to issue an annual report informing the public whether the District's bond expenditures comply with state law and the bond's intent.²²

Oversight Committee bylaws

Bylaws are the written rules that control the internal affairs of an organization. They detail the name of the oversight body, specifying its purpose, duties, and responsibilities; they further outline the membership requirements. The bylaws also explain how meetings of the committee should be conducted and the level of support the District will provide to the committee.

The District's Board of Trustees approved the bylaws, titled "Gavilan Joint Community College District Independent Citizens' Bond Oversight Committee Bylaws," on December 11, 2018, under Board Resolution 1040.²³ In studying the bylaws, the Civil Grand Jury noted the Board of Trustees used a template commonly used by community college districts in Santa Clara County. The use of this template is a recognized practice. However, the bylaws should include all applicable and relevant technical and administrative support and resources to enable effective oversight of the Measure X bond program.

Ethics policy statement

The bylaws spell out how the Oversight Committee shall operate and the ethical and conflict of interest requirements that must be honored by individual members. The bylaws should be written in understandable language to help committee members recognize and avoid potential ethical issues. An Ethics Policy Statement can provide critical information by defining acceptable ethical behavior and identifying potential conflicts of interest for Oversight Committee members.

The Oversight Committee bylaws, as approved by the Board of Trustees, state, "...members shall comply with the Committee Ethics Policy attached as 'Attachment A' to these Bylaws."²⁴ However, there is no Attachment A accompanying the bylaws, and there is no "Committee Ethics Policy" that has been adopted by the District. Additionally, no separate ethics or conflict of interest policy was given to the Oversight Committee members. The Civil Grand Jury learned that the

²² California Constitution, art. XIII A, accessed October 5, 2021, https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=CONS&article=XIII+A.

²³ Gavilan Joint Community College District, Minutes of Board of Trustees Regular Meeting, December 11, 2018, Agenda Item 12. C, "Resolution #1040," <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=B6X26473B831>.

²⁴ Gavilan College Measure X Bond, Citizens' Bond Oversight Committee, "Committee Bylaws, Section 5.3 (a)," accessed October 24, 2021, <http://gavilanmeasurex.org/wp-content/uploads/2019/04/Bylaws-for-CBOC-Gavilan-Joint-CCD.pdf>.

District had decided, upon legal advice, that no Attachment A was necessary, and that the section summarizing conflict of interest requirements in the Oversight Committee’s bylaws, Section 5.3, was sufficient. The Civil Grand Jury learned that the reference to Attachment A in the bylaws was a clerical error, and the policy referenced in Attachment A does not exist. Further, the Civil Grand Jury learned that Oversight Committee members were not given any additional training in how to recognize and avoid ethical problems or conflict of interest situations. The issue of appropriate training is addressed in [*Technical Support to the Oversight Committee*](#), below.

The Oversight Committee’s bylaws specifically state that all financial decisions are outside the Oversight Committee’s authority. Those powers, such as approving contracts, change orders, expenditures of bond funds, and project plans and schedules, are reserved for the District’s Board of Trustees and the Superintendent/President.²⁵ With no direct responsibility for financial decision-making, it may not appear to a committee member or the public that the Oversight Committee members do have ethical limitations regarding contracts and incompatible activities. In fact, as referenced in the Oversight Committee bylaws, the law imposes ethical restrictions that prohibit a committee member’s conduct related to certain types of contracts.²⁶ It also restricts engagement in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with the committee member’s duties or with the duties, functions, or responsibilities of the Oversight Committee or District.²⁷

The Oversight Committee is charged with overseeing the expenditure of bond proceeds and certifying to the public that they are being spent in accordance with state law and the intent of the bond measure. Violations of ethical behavior or conflicts of interest by Oversight Committee members would seriously undermine the Oversight Committee’s credibility and the public’s trust. In an environment of lingering mistrust, the credibility and transparency of the Oversight Committee members is critical.

²⁵ Gavilan College Measure X Bond, Citizens’ Bond Oversight Committee, “Committee Bylaws, Section 3.4.,” accessed October 24, 2021, <http://gavilanmeasurex.org/wp-content/uploads/2019/04/Bylaws-for-CBOC-Gavilan-Joint-CCD.pdf>.

²⁶ California Government Code §§ 1125-1129, accessed November 30, 2021, https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=4.&chapter=1.&lawCode=GOV&title=1.&article=4.7; California Education Code § 35233, accessed November 30, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=35233.&lawCode=EDC.

²⁷ Ibid.

The Civil Grand Jury compared other oversight committee bylaws to those approved by the District for the Measure X Oversight Committee. Each set of bylaws examined included the same section in the Measure X Oversight Committee’s bylaws, titled “Ethics: Conflicts of Interest,” but these other bylaws include an Attachment A. The policy statement provides oversight committee members with clear and specific guidance to follow when fulfilling their responsibilities. It helps members identify and avoid potential conflicts of interest. The guidance includes “generally accepted good practices” to help define ethical and professional conduct for oversight committee members. The Civil Grand Jury reviewed other oversight committee bylaws who chose to adopt an Ethics Policy Statement and some districts even required their members to sign and acknowledge their ethical responsibilities. A list of those districts and a copy of the Ethics Policy Statement are provided in [Appendix 2](#). ([Finding 1](#))

The Civil Grand Jury found that the District Board of Trustees has a comprehensive ethics and conflict of interest policy and related procedures.²⁸ The policy and procedures apply to the Board of Trustees and to District employees and are written in understandable language as opposed to the legal terminology contained in the Oversight Committee bylaws. Given the complexities of the legal requirements surrounding these ethical responsibilities, the District should provide clear written guidance to the Oversight Committee on their ethical responsibilities. Clear direction to Oversight Committee members about their ethical responsibilities improves the Oversight Committee’s ability to follow these requirements and it promotes public trust in its work.

Conflict of interest disclosures

In the bylaws, the District specifically exempts Oversight Committee members from the California Political Reform Act.²⁹ This means members are not required to complete and submit statements of economic interest as required by the California Fair Political Practices Commission of all elected officials and public employees who make or influence governmental decisions.³⁰ This is

²⁸ Gavilan Joint Community College District BoardDocs, “Board Policy,” accessed November 22, 2021, <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=B6HRLQ67CFF0>; Gavilan Joint Community College District BoardDocs, “Administrative Procedures,” accessed November 22, 2021, <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=B8QQDF638D8B>.

²⁹ Gavilan College Measure X Bond, Citizens’ Bond Oversight Committee, “Committee Bylaws, Section 5.3 (a),” accessed October 24, 2021, <http://gavilanmeasurex.org/wp-content/uploads/2019/04/Bylaws-for-CBOC-Gavilan-Joint-CCD.pdf>.

³⁰ California Fair Political Practices Commission, “Statements of Economic Interests - Form 700,” accessed December 6, 2021, <https://www.fppc.ca.gov/Form700.html>.

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relevant because in the Oversight Committee's bylaws, the Board of Trustees retains financial decision-making authority for the Measure X program in the following areas:

- Approve contracts
- Approve change orders
- Expenditures of bond funds
- Handling of legal matters
- Approve project plans and schedules
- Approve scheduled maintenance plans
- Approve the sale of bonds³¹

In the bylaws, the Oversight Committee's responsibilities include informing the public, reviewing expenditures, and publishing an annual report as follows:

- Inform the public about the District's expenditure of bond proceeds
- Review expenditure reports produced by the District to ensure bond proceeds were only expended for the purpose set forth in Measure X and that no proceeds were used for teacher or administrative salaries
- Present the Board of Trustees in a public session an annual report that includes a statement indicating whether the District is in compliance with the California Constitution and provides a summary of the Oversight Committee's meetings and proceedings from the previous year³²

The Civil Grand Jury learned that the District did not provide an ongoing process whereby Oversight Committee members could evaluate, consult, or report potential conflicts of interest. While Oversight Committee members may not make direct financial decisions, they are overseeing the actions of the Board of Trustees in Measure X fiscal activity. Having a process to evaluate potential conflicts of interest is necessary to ensure public confidence and transparency. It is critical that these disclosures be regularly solicited and made available to the public. While Oversight Committee members may not have financial interests at the time of their appointment,

³¹ Gavilan College Measure X Bond, Citizens' Bond Oversight Committee, "Committee Bylaws, Section 3.4," accessed October 24, 2021, <http://gavilanmeasurex.org/wp-content/uploads/2019/04/Bylaws-for-CBOC-Gavilan-Joint-CCD.pdf>.

³² Ibid., Sections 3.1 - 3.3.

personal or business associations with Measure X contractors, consultants, and vendors can occur throughout the life cycle of the bond program.

Oversight Committee Membership

The District and the Board of Trustees have incorporated some of the Education Code’s oversight committee membership requirements into the Oversight Committee’s bylaws.³³ For instance, the bylaws require that the Oversight Committee’s membership be comprised of individuals who are at least 18 years old and who are not a District employee, contractor, vendor, or consultant.³⁴ Appointed members represent the affiliation categories identified in [Table 3](#) below.

Minimum Number of Members	Membership Affiliation Category
1	Student enrolled and active in a community college support group
1	Member active in a business organization located in the District
1	Member active in a senior citizens’ organization
1	Member active in a bona-fide taxpayer association
1	Member active in a support organization for the college
2	Members of the community at-large

Table 3. Minimum Membership Requirements³⁵

Each Oversight Committee member brings unique insight and perspective. In addition to the legal requirements regarding the committee’s composition, it is in both the District’s and the public’s interest to have active members involved in bond program oversight. While vacancies in membership can occur from time to time due to unforeseen circumstances, having additional members above the minimum required by the Education Code and the number specified in the

³³ California Education Code § 15282, accessed October 7, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15282.&lawCode=EDC.

³⁴ Gavilan College Measure X Bond, Citizens’ Bond Oversight Committee, “Committee Bylaws, Section 5.2 (a) - (b),” accessed October 24, 2021, <http://gavilanmeasurex.org/wp-content/uploads/2019/04/Bylaws-for-CBOC-Gavilan-Joint-CCD.pdf>.

³⁵ Ibid., Section 5.1.

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bylaws ensures no affiliation category goes unrepresented or becomes underrepresented. An additional benefit is that this supports public trust.

Members appointed

The Civil Grand Jury learned that only seven members, the minimum number required by law, were appointed by the Board of Trustees to the Oversight Committee. This may result in less than a full contingent of the represented areas at any meeting. During the October 28, 2021 Oversight Committee meeting, staff reported two vacancies, leaving the current Oversight Committee with only five serving members.³⁶ Since the Oversight Committee only had the minimum number of members appointed, there is incomplete representation shown in [Table 4](#) below. The vacancies in the student and taxpayer association member categories drive an immediate requirement to fill those positions as quickly as possible to return committee membership to the minimum required by law. ([Finding 2](#))

Membership Affiliation Category	Term 1		Term 2	
	Start Date *	End Date	Start Date *	End Date
Student	6/9/2020	6/9/2022	Vacant	
Support Organization	10/8/2019	10/8/2021	9/14/2021	9/14/2023
Business Organization	4/12/2019	4/12/2021	3/9/2021	3/9/2023
Senior Citizens' Organization	4/12/2019	4/12/2021	3/9/2021	3/9/2023
Community At-Large	4/12/2019	4/12/2020	4/14/2020	4/14/2022
Community At-Large	4/12/2019	4/21/2021	3/9/2021	3/9/2023
Taxpayers' Association	4/12/2019	4/12/2021	3/9/2021	Vacant

* Denotes the member's Board of Trustees appointment as well as the term start date

Table 4. Committee Member Term Chart³⁷

The Civil Grand Jury reviewed the number of members appointed to other district oversight committees. One way those Boards of Trustees managed their oversight committee membership was they appointed enough members to withstand membership changes. Oversight committee membership can drop because a student member graduates, a member reaches their maximum term limit, or a member resigns for personal reasons. The Board of Trustees should carefully manage membership appointments to withstand those changes by keeping a balance above the legally

³⁶ Measure X Citizens' Bond Oversight Committee, October 28, 2021, Agenda Item 6. A. "Member Term Chart," <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=C85UC67B5CD8>.

³⁷ Measure X Citizens' Bond Oversight Committee, "Member Term Chart," <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=C85UC67B5CD8>.

required seven. [Table 5](#) below provides examples of some community college districts which have oversight committee membership above the minimum required by law.

Community College District	Members
<i>Minimum number required by law</i> ³⁸	7
Los Rios ³⁹	11
North Orange County ⁴⁰	12
San Diego ⁴¹	9
State Center ⁴²	9

Table 5. Community College District Membership

Membership term periods

The Civil Grand Jury is concerned with the term limit requirements the Board of Trustees stipulated for members of the Oversight Committee. The Education Code allows Oversight Committee members to serve no more than three consecutive two-year terms. The exception is the student member who can only serve six months after graduation and only if receiving Board of Trustee approval.⁴³ The Oversight Committee bylaws do not follow the term limit restrictions in the Education Code—there is an inconsistency.

In the Oversight Committee bylaws, the Board of Trustees include the statement, “Members whose terms have expired may continue to serve on the [Oversight] Committee until a successor has been

³⁸ California Education Code § 15282, accessed October 7, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15282.&lawCode=EDC.

³⁹ Los Rios Community College District, Citizens’ Bond Oversight Committee, “Committee Members,” accessed December 3, 2021, <https://losrios.edu/community/facilities/general-obligation-bonds/citizens-bond-oversight-committee>.

⁴⁰ North Orange County Community College, Bond Measure J Citizens’ Oversight Committee, “Committee Members,” accessed December 3, 2021, <https://www.nocccd.edu/citizens-oversight-committee-344/895/committee-members>.

⁴¹ San Diego Community College District, Citizens’ Oversight Committee, “Citizens’ Oversight Committee Members,” accessed December 3, 2021, <http://props-n.sdccd.edu/About/Pages/COC.aspx>.

⁴² State Center Community College District, Measure C Oversight Committee, “Citizens’ Oversight Committee Members,” accessed December 3, 2021, <https://www.sccd.edu/business-and-community/measure-c/oversight-committee/index.html>.

⁴³ California Education Code § 15282, accessed November 20, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15282.&lawCode=EDC.

appointed.”⁴⁴ While a member’s continuation can help bridge a membership changeover, this bylaw implies that the Board of Trustees has the authority to hold a member over beyond their third term. The law is clear that Oversight Committee members shall serve, “...no more than three consecutive terms.”⁴⁵ Although holding over members may be a useful tool, and may be temporary, the Education Code does not give the Board of Trustees the authority to extend members beyond the expiration of their third term. While not an immediate problem, as Oversight Committee members move through their second and third terms, membership appointments must be managed carefully to meet the Education Code restrictions.

Because the Measure X bond program was approved in November 2018, those individuals originally appointed as Oversight Committee members entered their second term in 2020 and 2021 (See [Table 4](#) above). Committed, long-serving members can continue to serve until 2025 with a third-term Board of Trustees appointment. The Education Code does not allow the Board of Trustees to hold an Oversight Committee member over beyond the expiration of their 2025 appointment date, despite the inconsistent statement in the bylaws.

While researching the membership terms, the Civil Grand Jury learned that the Board of Trustees has already been out of compliance with the Education Code’s membership requirements. The Civil Grand Jury learned through publicly available information that the student member appointed on June 9, 2020, served beyond graduation. The Board of Trustees could have approved a post-graduation six-month term extension for the student member. However, the Board did not do this and therefore was not in compliance with the Education Code. In addition, the District’s Membership Term Chart does not include the term limit provision for the student affiliation category.⁴⁶ The Oversight Committee and the public rely on information provided by the District to be accurate and in alignment with the legal requirements in the Education Code.

⁴⁴ Gavilan College Measure X Bond, Citizens’ Bond Oversight Committee, “Committee Bylaws, Section 5.4,” accessed October 24, 2021, <http://gavilanmeasurex.org/wp-content/uploads/2019/04/Bylaws-for-CBOC-Gavilan-Joint-CCD.pdf>.

⁴⁵ California Education Code § 15282, accessed November 20, 2021, https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15282.&lawCode=EDC.

⁴⁶ Measure X Citizens’ Bond Oversight Committee, October 28, 2021, Agenda Item 6. A. “Member Term Chart,” <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=C85UC67B5CD8>.

Both the Oversight Committee's bylaws and the District's actions in managing Oversight Committee membership should be in sync with the Education Code. ([Finding 3](#))

The District's Responsibilities

The District's responsibilities to the Oversight Committee include both administrative and technical support, and resources. The Board of Trustees must provide administrative support, including sufficient resources to publicize the conclusions of the Oversight Committee without expending bond funds.⁴⁷ All Oversight Committee proceedings are open to the public. Meeting notices to the public should be provided in the same manner as the proceedings of the governing board of the District.⁴⁸ The Oversight Committee is required, at least once a year, to issue regular reports on the results of its activities.⁴⁹ Minutes of the Oversight Committee proceedings, all documents received, and reports issued are a matter of public record and should be made available on an internet website maintained by the Board of Trustees.⁵⁰ In addition, the Education Code directs the District's Board of Trustees to provide the Oversight Committee with any necessary technical assistance.

District's contracted support services

To facilitate the execution of the legally mandated responsibilities described above, the Oversight Committee relies on the District. The District has delegated support services to A Kennedy Group (AKG), with whom the District contracts to manage the bond program. The District's Oversight Committee support responsibilities are detailed in the Oversight Committee's bylaws and are characterized as both administrative and technical:

- Prepare and post public notices as required by the Brown Act
- Identify and setup a meeting room including audio/visual capabilities

⁴⁷ California Education Code § 15280 (a) (1), accessed November 18, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15280.&lawCode=EDC.

⁴⁸ California Education Code § 15280 (b), accessed November 18, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15280.&lawCode=EDC.

⁴⁹ Ibid.

⁵⁰ ⁵⁰ California Education Code § 15280 (a) (1), https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15280.&lawCode=EDC.

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- Prepare, translate, and create copies of meeting materials such as agendas and reports
- Retain Oversight Committee records and make access available to the public via a website⁵¹

As mentioned above, the Oversight Committee relies heavily on the District, but equally important is the District's reliance on their contractor, AKG, to deliver Measure X program management services, compliance services, and communications support services.⁵² AKG also licenses the use of its proprietary Bond Management Executive Tools software to the District. This program management software provides the District and the Oversight Committee with tracking and reporting for:

- Projects funded by multiple funding sources
- Capital construction projects
- On-site construction managers
- Local bond accounting and audit control (state and federal funding sources)⁵³

The contracted functions discussed above reside in a single agreement of services carried out by a single contractor. While having the same contractor provide a variety of services to support one bond program is not problematic itself, the fact that they manage the bond program and provide both bond expenditure data and administrative support services to the committee responsible for overseeing the bond program is an issue that needs to be managed carefully. Disclosures and transparency are vital to avoid any misperceptions about the information being provided to the Oversight Committee as it carries out its constitutional mandate.

Civil Grand Jury concerns

The Civil Grand Jury learned that the Oversight Committee and some District staff were not fully aware of the scope of program management and the technical and administrative services AKG is providing. In raising this issue, the Civil Grand Jury is focusing on the potential for public misperception of the Oversight Committee's independence. First, open communication concerning the contractor's multiple roles in support of the Board of Trustees, the District, and the Oversight Committee itself is critical to public trust. Second, ensuring all parties understand and can

⁵¹ Gavilan College Measure X Bond, Citizens' Bond Oversight Committee, "Committee Bylaws, Section 7.1 (a) - (d)," accessed October 24, 2021, <http://gavilanmeasurex.org/wp-content/uploads/2019/04/Bylaws-for-CBOC-Gavilan-Joint-CCD.pdf>.

⁵² Gavilan Joint Community College District, Board of Trustees Regular Meeting, April 13, 2021, Agenda Item 9. C, "Measure X Program Management Agreement," <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=BZTRDC6C97A7>.

⁵³ AKG, A Kennedy Group, "Bond Management Executive Tools," accessed November 11, 2021, <http://akennedygroup.com/bmet/>.

communicate the checks and balances the District has in place to ensure Oversight Committee independence would confirm that independence for both Oversight Committee members and the public.

An additional concern of the Civil Grand Jury relates to the checks and balances discussed above. The three-way relationship among the Oversight Committee, AKG service support, and the District should be clarified. The District funds AKG's work for the Oversight Committee. If the Oversight Committee were to request additional support services (see "Additional services upon request" under the [Administrative Support to the Oversight Committee](#) section below) or if it wished to publish an issue or negative finding about the bond program to the Measure X website, how much authority do they have to take either of these actions? Can the Oversight Committee directly request additional services such as financial expenditure reports or additional training? Is the Oversight Committee able to request AKG support to take a desired action, for example, create and post a generic email address that goes directly to the committee members? A clarifying agreement is needed specifying who can commit the contractor to, "Additional services upon request" if more information, resources, or administrative and technical work is needed to carry out the Oversight Committee's role.⁵⁴ The Oversight Committee's independence is legally mandated. However, the District needs to clarify the level of independent authority the Oversight Committee holds. ([Finding 4](#))

Administrative Support to the Oversight Committee

As introduced and described above, administrative support to the Oversight Committee is provided by the District in accordance with the Oversight Committee's bylaws. The District has outsourced that administrative support to AKG through June 2023. A section of the contract contains Communications Support Services to the Oversight Committee. Relevant support provided includes:

- Update and maintain the Measure X Bond Program website
- Interface with the Board of Trustees, [Oversight] Committee members, District staff and community members to develop visually clear and informative presentation materials, newsletters, annual reports, and websites
- Additional services upon request⁵⁵

⁵⁴ Gavilan Joint Community College District, Board of Trustees Regular Meeting, April 13, 2021, Agenda Item 9. C, "Measure X Program Management Agreement," <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=BZTRDC6C97A7>.

⁵⁵ Gavilan Joint Community College District, "Measure X Program Management Agreement," <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=BZTRDC6C97A7>.

The responsibility of the District and the role of the Oversight Committee were summarized for the public in a March 2019 Measure X newsletter, which captured the value and importance of communication and transparency. While not mentioning the Oversight Committee's role specifically, the District assured the public it would provide information and transparency, when it issued the following message in its newsletter:

Transparency and communication are key to the successful implementation of the Measure X Bond Program. Our goal with this website is to provide a quick and easy way to access essential information on all things Measure X, including project lists and updates, financial reports, program documents, and more. As the bond program moves ahead, this website will be regularly updated to keep our community, students, staff, and faculty up to date.⁵⁶

⁵⁶ Gavilan College Measure X Bond Newsletter, "Measure X Bond Website & Project List," accessed October 11, 2021, <http://createsend.com/t/y-30C14BC833F05DB8>.

Public newsletter

As Thomas Jefferson has said, an informed citizenry is the repository of the public trust. The Civil Grand Jury observed the District's efforts to do so through the Measure X email newsletter. The Measure X email newsletter is a powerful and effective way to communicate to the public. The Civil Grand Jury applauds the District's foresight to include the newsletter publication and distribution as a communications support service in the contract agreement with AKG. This valuable tool facilitates public outreach to residents. The District's stated purpose for the newsletter "...is to help inform our community on the District's progress on the voter-approved Measure X bond."⁵⁷

The Oversight Committee's website invites viewers to subscribe to the Measure X email newsletter, which is published as the "Measure X Bond Newsletter." A prominent email sign-up tool is available on the Measure X homepage and provides a confirmation message once a member of the public enters their full name and email address. An archive of past newsletters exists which, in theory, gives interested residents the means to review previous bond activity. Members of the Civil Grand Jury subscribed to the newsletter. However, since subscribing in April 2021, no newsletters have been received despite members receiving confirmation of signing up. In fact, the last newsletter in the archive was published in September 2019.⁵⁸

Reviving the established practice of emailing the newsletter can keep interested members of the public apprised of important issues and changes surrounding the Measure X program. The newsletter can broadcast updates, solicit members of the public to fill Oversight Committee vacancies, and provide highlights of approved bond list revisions, all of which are currently lost opportunities. This would be a proactive alternative to requiring the public to visit the Measure X website to determine the status of projects among the other changes across the Measure X program. ([Finding 5](#))

Electronic communication

The Oversight Committee holds quarterly meetings, using online technology to overcome the restrictions resulting from the declared state of emergency due to the COVID-19 pandemic. Engaging with the community is an important function of any committee constituted to work on behalf of the public. Fielding questions and addressing concerns is a vital part of the Oversight

⁵⁷ Gavilan College Measure X Bond Newsletter, September 2019, accessed October 11, 2021, <http://createsend.com/t/y-2922AA9896C44FA4>.

⁵⁸ Gavilan College Measure X Bond, Citizens' Bond Oversight Committee, "Newsletter Archive," accessed October 11, 2021, <http://gavilanmeasurex.org/newsletter-archive/>.

Committee’s responsibilities. The importance of community dialogue is reflected by a standing agenda item asking members to report messages received from the public.

The Civil Grand Jury studied the effectiveness associated with this standing agenda item by analyzing seven Oversight Committee meeting minutes from June 25, 2019, to July 20, 2021 (the last meeting minutes adopted by the Oversight Committee). The Civil Grand Jury also attended three of the Oversight Committee’s quarterly virtual meetings. Based on the minutes review and the meetings attended, no Oversight Committee members reported they received any messages from the public.

The District does not provide Oversight Committee members with a direct and effective tool to support their communication with the public. The Civil Grand Jury identified two communications from members of the public received through the Measure X website. The meeting minutes for July 20, 2021, do not reflect these communications.⁵⁹ If a community member wishes to reach the Oversight Committee or one of its members, there is no effective mechanism to contact either directly. ([Finding 6](#))

On the Measure X website, under the Oversight Committee Members’ webpage, the public can see a list of current members serving on the Oversight Committee. However, there are no instructions or tools available to communicate directly with an Oversight Committee member.

A menu option is available on the Measure X website titled “Contact” as shown below in [Figure 2](#) below. The instructions ask visitors to submit their questions or comments using the online form, after which it will be “...forwarded to the appropriate persons.”⁶⁰ This requires whomever the website administrator is to disseminate messages to individual Oversight Committee members. It is not clear to the Civil Grand Jury who members of the public are communicating with when they use this contact feature. Providing a direct way for the public to communicate with the Oversight Committee or one of its members is essential.

⁵⁹ Gavilan Measure X Bond, Citizens’ Bond Oversight Committee, July 20, 2021, Agenda Item F, “Communications Received by Committee Members,” <http://gavilanmeasurex.org/wp-content/uploads/2021/10/GAV-CBOC-Minutes-072021-FINAL.pdf>.

⁶⁰ Gavilan College Measure X Bond, Citizens’ Bond Oversight Committee, “Contact,” accessed November 24, 2021, <http://gavilanmeasurex.org/contact/>.

About Measure X ▾ Oversight Committee ▾ Planning Taskforce ▾ Project Info ▾ Program Documents ▾ Vendors ▾ **Contact**

Contact


Please use the form below to submit any questions or comments regarding the Measure X Bond Program. Your message will be forwarded to the appropriate persons and will be in touch to follow up on your message.

Name *

First Last

Email *

Comment or Message *

I'm not a robot  reCAPTCHA
Privacy - Terms

Next CBOC Meeting

The Citizens' Bond Oversight Committee (CBOC) is responsible for reviewing Measure X expenditures, with quarterly meetings open to the public.

Tuesday, January 18, 2022
6:00pm – 7:30pm

Meeting details will be posted at least 72 hours in advance of the meeting.

Figure 2. Measure X Website Contact Page

The Civil Grand Jury examined the communication processes of other bond oversight committees. [Table 6](#) below summarizes how other committees enable public interaction using electronic mail (email).

Tool	Description
Email ⁶¹	The oversight committee’s website allows the public to email the Citizens’ Bond Oversight Committee (CBOC) coordinator with any questions or concerns they may have, stating which member of the committee they wish to address using CBOC@email.edu. <i>(Example email is used for illustrative purpose.)</i>
Hyperlink to Email ⁶²	Notification is given to the public directly on the committee’s website, “To contact a member of the Citizens’ Bond Oversight Committee, please email our C.B.O.C. coordinator.” <i>(The C.B.O.C. coordinator reference links to an email address that administers the oversight committee’s incoming email.)</i>
Email ⁶³	One oversight committee allows their members to share their own email account on the committee’s website. The page also identifies which affiliation group the member represents to aid the public with corresponding with the appropriate representative.

Table 6. Sample Communication Methods

While the Civil Grand Jury does not advocate for any one approach, these examples show how other oversight committees are employing various tools to encourage public comment and input.

Public meetings, announcements, and notifications

The Education Code requires that the Oversight Committee issue regular reports on the results of its activities.⁶⁴ Those official activities occur through meetings (also referred to as proceedings). The Education Code requires that meetings of the Oversight Committee, as with other government agencies, “...shall be open to the public and notice to the public shall be provided in the same

⁶¹ Riverside College Citizens’ Bond Oversight Committee - Measure C, accessed October 11, 2021, <https://www.rccd.edu/committees/cboc/Pages/index.aspx>.

⁶² Mount Diablo Unified School District, “About Citizens’ Bond Oversight Committee Measure C,” accessed October 11, 2021, <https://mdusd.org/cboc>.

⁶³ Hartnell College Measure T Bond Oversight Committee, accessed October 11, 2021, <https://www.hartnell.edu/about/t/committee.html>.

⁶⁴ California Education Code § 15280 (b), accessed November 28, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15280.&lawCode=EDC.

manner as the proceedings of the governing board of the district.”⁶⁵ As previously discussed above, the District’s support obligations to the Oversight Committee originate from the Education Code and the Oversight Committee’s bylaws, which state, “The District shall provide necessary administrative support to the [Oversight] Committee as shall be consistent with the [Oversight] Committee’s purpose, as set forth in Prop 39 [Proposition 39].”⁶⁶ The District’s support, again provided by the administrative support contractor (AKG), enables the Oversight Committee’s ability to conduct its quarterly public oversight meetings. These meetings are subject to the Ralph M. Brown Public Meetings Act (The Brown Act).⁶⁷ The Brown Act requires the posting of public meeting announcements and agendas 72 hours before a regular meeting or 24 hours before a special meeting.

During the Civil Grand Jury’s investigation, several public meeting protocols for Oversight Committee meetings were not followed by the District. These involved the announcement, cancellation, and rescheduling of meetings. Because public meetings must follow the Brown Act provisions, the public is used to meeting announcements and agendas being publicly available 72 hours in advance of the meeting. The Civil Grand Jury wanted to verify that the District was following this required practice. Members of the Civil Grand Jury attempted to attend the scheduled October 19, 2021 oversight meeting. For that meeting, the District did not have an advance agenda available, and did not provide public notice of the meeting’s cancellation.

⁶⁵ Ibid.

⁶⁶ California Education Code § 15280 (a), accessed November 28, 2021, https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15280.&lawCode=EDC; Gavilan College Measure X Bond, Citizens’ Bond Oversight Committee, “Committee Bylaws” accessed October 24, 2021, <http://gavilanmeasurex.org/wp-content/uploads/2019/04/Bylaws-for-CBOC-Gavilan-Joint-CCD.pdf>.

⁶⁷ California Government Code §§ 54950-54963, accessed October 11, 2021, https://leginfo.ca.gov/faces/codes_displayText.xhtml?division=2.&chapter=9.&part=1.&lawCode=GOV&title=5.

During the Oversight Committee’s July 20, 2021 quarterly meeting, the Oversight Committee provided their future meeting schedule, advertising October 19, 2021, as their next meeting.⁶⁸ The Civil Grand Jury reviewed the Measure X and BoardDocs websites in advance to verify compliance with the advance agenda requirement. No agenda was ever posted for the October 19 meeting. When Civil Grand Jury members attempted to attend the meeting, no details were made available despite the website indicating they would be provided 72 hours in advance as depicted in [Figure 3](#) above.⁶⁹

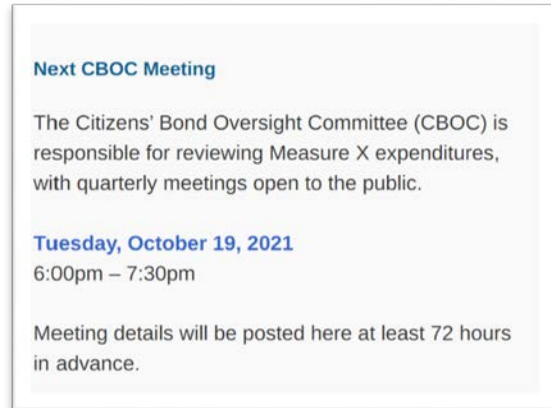


Figure 3. Meeting Announcement

To the Civil Grand Jury’s surprise, the virtual meeting remained dark on the day in question only to be rescheduled nine days later. Members of the public wishing to attend the October 19, 2021 meeting would have no notion of the newly rescheduled date because they were not apprised of the original meeting cancellation.

The Civil Grand Jury conducted a deeper review into how the meeting was cancelled and rescheduled. On the Oversight Committee’s “Meeting Schedule, Agenda, Minutes” webpage, the Civil Grand Jury found that there is no longer information that a meeting had been scheduled for October 19, 2021, and therefore no information it was not held. That cancelled meeting was rescheduled – after the 19th – to October 28, 2021. The example below shows that the previously scheduled meeting is no longer visible to the public. It now shows only the new meeting replicated in [Figure 4](#) below.

⁶⁸ Measure X Citizens' Bond Oversight Committee, July 20, 2021, Agenda Item 6. B, “Future Meeting Dates,” accessed November 6, 2021, <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=C4Q8KE1E95A2>.

⁶⁹ Gavilan College Measure X Bond, Citizens’ Bond Oversight Committee, accessed November 6, 2021, <http://gavilanmeasurex.org/>.

2021 Meeting Schedule

Date and Time	Location	Agenda, Minutes
Tuesday, March 23, 2021 6:00 PM – 7:30 PM	Zoom meeting	Agenda, Minutes
Tuesday, July 20, 2021 6:00 PM – 7:30 PM	Zoom meeting	Agenda, Minutes
Tuesday, October 28, 2021 6:00 PM – 7:30 PM	Zoom meeting	Agenda

Figure 4. Meeting Schedule, Agenda and Minutes for the Oversight Committee

The public could assume that the District would appropriately cancel a meeting because it had done it properly for a previously cancelled meeting, the one scheduled for April 23, 2020. On the website, the cancelled meeting remains lined out.⁷⁰ The public is not served well by the lack of timely communication and inconsistent practice.

While the Civil Grand Jury acknowledges there may be circumstances requiring a previously scheduled quarterly meeting to be cancelled, not keeping the public informed with a cancellation notice posted on the Measure X homepage challenges the public’s right to engage with the Oversight Committee and to provide feedback regarding the bond program. ([Finding 7](#))

⁷⁰ Gavilan Joint Community College District, “Meeting Schedule, Agenda, Minutes,” accessed November 6, 2021, <http://gavilanmeasurex.org/meeting-schedule-agenda-minutes/>.

It serves the public better to publish a cancellation notice on the Oversight Committee’s website. An example of this norm commonly used by oversight committees is provided in [Figure 5](#) below.⁷¹ In the example, the cancellation notice is made available along with the Oversight Committee’s planned November 3, 2021 meeting agenda along with associated agenda attachments for the public’s reference.



Figure 5. Cancellation Notice on Oversight Committee Website

Navigating to the meeting materials

As mentioned above, the Oversight Committee is required to conduct its proceedings in accordance with the Brown Act. To do this, they require the District’s administrative support provided by AKG to ensure “...all documents received and reports issued shall be a matter of public record and be made available on an Internet Web site [Measure X] maintained by the governing board of the district [Gavilan Board of Trustees].”⁷² Oversight Committee meeting schedules and agendas are key to ensuring public access to quarterly meetings, particularly when they are conducted online.

⁷¹ San Francisco Unified School District, SFUSD Bond Program Citizens’ Bond Oversight Committee (CBOC), accessed November 1, 2021, <https://www.sfusd.edu/connect/get-involved/advisory-councils-committees/cboc>.

⁷² California Education Code § 15280 (b), accessed November 28, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15280.&lawCode=EDC.

Equally important to having the documentation in a timely manner is having it easily accessible. The Oversight Committee’s public meeting announcements do not include a prominent link to the agenda. In fact, members of the public would have a challenging time discovering that the meeting date is in fact a link to the “Meetings Schedule, Agenda, Minutes” webpage. To discern that a link exists, a member of the public would need to hold their cursor over the date field to see that it also serves as a link to another webpage. [Figure 6](#) provides an example of the meeting announcement with the unclear webpage link.

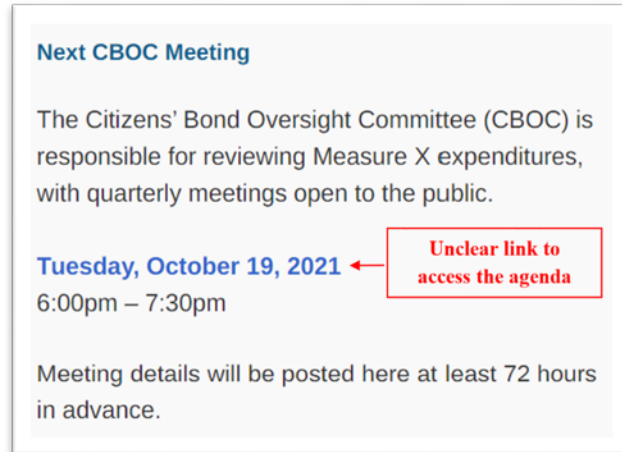


Figure 6. Link to Agenda

The Measure X website’s navigation, webpage structure, and integration with the District’s BoardDocs website is an additional challenge for the public trying to access agendas and meeting materials. Oversight Committee meeting documents are managed across two different websites and two different webpages. Two of the webpages reside on the Oversight Committee’s Measure X website, while the third webpage is maintained in BoardDocs, which serves as the District’s integrated agenda management platform. Members of the public who are interested in obtaining an agenda for an upcoming meeting must use multiple links to navigate to the meeting materials, which are spread across multiple webpages and websites. In studying this issue, the Civil Grand Jury followed the navigation links from the Measure X website homepage to the agenda for a scheduled Oversight Committee meeting. This process is illustrated in [Appendix 6](#). The Oversight Committee’s website should provide the public efficient access to meeting agendas and materials one click away from the Measure X homepage.

Technical Support to the Oversight Committee

In addition to administrative support, the District also provides technical support to the Oversight Committee. To determine the type and level of support and services, the Civil Grand Jury reviewed the requirements outlined in the Education Code, the Oversight Committee bylaws, and the service contract between the District and its Measure X contractor, AKG. The Civil Grand Jury categorized committee training, cost savings measures, and the annual audits as technical support functions provided by the District to the Oversight Committee in support of its fundamental responsibilities to the voters, residents, and the students.

Oversight Committee training

The Education Code lays out two fundamental roles of the Oversight Committee, saying it shall actively review and report on the proper expenditure of taxpayers' money, and it shall advise the public about the District's compliance with the California Constitution. Since Oversight Committee members are selected from the public, they may not have the management or technical expertise to thoroughly and effectively carry out the roles and responsibilities that bond oversight requires. These duties require a degree of familiarity with financial management and accounting, with analyzing reports, and with project management and construction. Therefore, a formal on-the-committee training program becomes foundational to the Oversight Committee carrying out its purpose efficiently and effectively.

Oversight Committee orientation

According to the Oversight Committee's June 25, 2019 meeting minutes, each member of the committee received orientation and reference materials from the District to help them gain an understanding of the legal requirements, the committee's bylaws, and the project documentation provided by the Measure X program management office. District personnel were available to lead the committee in discussion and respond to questions. The Civil Grand Jury learned that the orientation and reference materials provided to committee members were broken out into ten sections outlined in [Table 7](#) below.

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Topics Tabs	Summary
Committee Contact Information	A confidential roster that lists committee members by name, their membership affiliation category, and their contact information for other members and staff to reference.
Bond Accountability Act	A one-page summary of the changes originating from the “Strict Accountability in Local School Construction Bonds Act of 2000.” This section also includes the following provisions outlined in the Education Code: <ul style="list-style-type: none"> • General Provisions • Citizens’ Oversight Committee • Financial and Compliance Audits • Bond Accountability
Members’ Terms	A term chart that outlines when members were appointed, their term dates, and which term they are currently serving (first, second, or third).
Committee Bylaws	The Board of Trustee’s Resolution Number 1040, establishing the Oversight Committee, and the committee’s bylaws that were approved by the Board.
Measure X Ballot Statement	The Board of Trustee’s Resolution Number 1034, which placed the measure on the ballot. This section includes the ballot language and supporting materials.
The Brown Act	A chapter from the Legislative Counsel’s Digest covering Assembly Bill No. 2257, which amended Government Code Section 54954.2, relating to meetings of local government.
Measure X Website	A reference sheet providing a link to the Measure X Bond website. The single page also identifies the links to other areas of the website such as the membership webpage, containing a list of the current Oversight Committee members, the Committee’s bylaws, the full ballot measure language, and the Facilities Master Plan.
Measure X Project List	The list of projects by project number and name with a summary of the project, its status, and the budget assigned.
Measure X Annual Reports	The list of reports produced and posted to the Measure X website. This includes the Oversight Committee’s annual report as well as the financial and performance audits.
Agenda & Meeting Minutes	A section to retain the materials used during the quarterly Oversight Committee meetings.

Table 7. Member Orientation Sections

MEASURE X BOND PROGRAM: OVERSIGHT SHORTCHANGED

The District provided this initial orientation to the newly appointed Oversight Committee members. With the recent departure of the student and taxpayer association members, it may be the case that these or previously replaced members will receive individual orientation, but it is not clear to the Civil Grand Jury that this will happen. In addition, sitting members should take responsibility for identifying any training they need to carry out their role efficiently and effectively. The Civil Grand Jury learned that since the initial orientation provided by the District, there has not been any additional training requested by or received by the Oversight Committee. ([Finding 8](#))

Training opportunities

The Civil Grand Jury examined the training programs of other oversight committees. One oversight committee provides an excellent example for training its members.⁷³ Its website has three videos that provide substantial training and bond program insight, which are provided for reference in [Table 8](#) below.

Subject Area	Web Link to Training	Duration
General Obligation Bond & Finance	https://youtu.be/FvcN_uY_t38	1:30:09
Construction 101	https://youtu.be/qbw1UXJBhiA	1:21:53
Proposition 39 Bonds	https://youtu.be/yirpkLBX0eA	0:45:01

Table 8. West Contra Costa Oversight Committee Training Videos

In addition, a relevant education and training resource is the California Association of Bond Oversight Committees (CABOC). This organization develops training materials for Citizens' Bond Oversight Committees. Based on a May 2021 survey, they identified and developed 13 training topics that would benefit active oversight committee members.⁷⁴ These topics were presented during the CABOC's 2021 Annual Statewide Conference held on October 16, 2021, and are identified in [Table 9](#) below. The Civil Grand Jury attended the conference to assess the training materials and the subject matter expertise provided. The CABOC's organizers and presenters provided an effective and comprehensive seminar training useful for both newly appointed and longstanding oversight committee members. Presentation materials and a recording of the conference are accessible on the CABOC website.⁷⁵

⁷³ West Contra Costa Unified School District, Citizens' Bond Oversight Committee, Training Videos 1-3, accessed October 11, 2021, <https://www.wccusd.net/domain/1998>.

⁷⁴ California Association of Bond Oversight Committees (CABOC), "The CABOC Digest, Issue 7, June 14, 2021," <https://www.bondoversight.org/wp-content/uploads/2021/06/7th-June-14-2021-Survey-Results.pdf>.

⁷⁵ CABOC, "First Annual Virtual CABOC Statewide Conference 2021," accessed October 11, 2021, <https://www.bondoversight.org/caboc-conference/>.

Training Topic Areas
Proposition 39
Independent Oversight Committees
Facilities Master Plan
Annual Report & Operations
Project List
Financial & Performance Audits
Oversight Committee Website
Bylaws & Memorandum of Understanding

Table 9. CABOC Conference Topic Areas

Communicating cost-saving measures

In any major construction initiative, particularly projects financed through a bond program and paid for with taxpayer dollars, leveraging ways to save project costs is an important goal. Money saved can be reallocated to other projects within the same bond program. The Education Code and bylaws give the Oversight Committee the authority to review cost-saving measures the District has implemented and to communicate them to the public. The five cost-saving measures identified in the Education Code as appropriate for the Oversight Committee to review include professional fees, site preparation costs, efforts related to joint use of core facilities, incorporation of efficiencies in school site design, and reusing facility plans.⁷⁶

In the original ballot measure, a specific cost-saving item identified was that some projects, “...may be undertaken as joint use projects in cooperation with other public or non-profit agencies.”⁷⁷ Potential joint use was brought up during the February 12, 2019 Board of Trustees meeting when a trustee mentioned that some of the projects in the bond’s master project list may be conducive to joint use or partnerships with other organizations as a cost saving measure.⁷⁸ The

⁷⁶ California Education Code § 15278 (c) (5), accessed October 9, 2021, https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15278.&lawCode=EDC.

⁷⁷ Gavilan College Measure X Bond, Citizens’ Bond Oversight Committee, “Full Ballot Language, November 6, 2018,” accessed November 26, 2021, <http://gavilanmeasurex.org/full-ballot-language/>.

⁷⁸ Gavilan Joint Community College District, “Minutes of Board of Trustees Regular Meeting, February 12, 2019,” <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=B8H2FZ80D368>.

Civil Grand Jury learned that the District has not provided the Oversight Committee with information about cost-saving efforts it has considered or undertaken. ([Finding 9](#))

It is in the District's interest to communicate cost-saving efforts to the Oversight Committee and, through the Committee, to the public. Such efforts assure taxpayers a greater return on investment and demonstrate responsible management of the bond program. One way to help the Oversight Committee meet its responsibilities is for the District to actively communicate any cost-saving measures taken.

Independent financial and performance audits

As mandated by the California Constitution, the District is required to conduct an annual independent financial audit and a performance audit.⁷⁹ The Education Code gives the Oversight Committee the authority to receive and review the financial and performance audits from the District.⁸⁰ The law further states that the Board of Trustees, "...shall provide the citizens' oversight committee with responses to any and all findings, recommendations, and concerns addressed in the annual, independent financial and performance audits."⁸¹

The Oversight Committee is required to review Measure X expenditures to ensure bond proceeds are spent for authorized purposes.⁸² To accomplish this, the Oversight Committee uses financial and performance audits conducted by the District's independent auditor. A financial audit examines whether bond construction money was spent legally and managed in accordance with generally accepted accounting principles. A performance audit examines how efficiently and effectively the bond program was carried out to determine if the program meets the measure's

⁷⁹ California Constitution, art. XIII A § 1(b)(3)(C)-(D), accessed November 26, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS§ionNum=SECTION%201.&article=XIII%20A.

⁸⁰ California Education Code § 15278 (b), accessed November 26, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15278.&lawCode=EDC.

⁸¹ California Education Code § 15280 (a)(2), accessed November 26, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15280.&lawCode=EDC.

⁸² California Education Code § 15278 (b), accessed November 26, 2021, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=15278.&lawCode=EDC; Gavilan College Measure X Bond, Citizens' Bond Oversight Committee, "Committee Bylaws, Section 3.2," accessed October 24, 2021, <http://gavilanmeasurex.org/wp-content/uploads/2019/04/Bylaws-for-CBOC-Gavilan-Joint-CCD.pdf>.

objectives. [Appendix 5](#) provides additional details into the scope of both the financial and performance audits.

Since the Measure X program's inception, there have been financial and performance audits completed for the fiscal years ending June 30, 2019, and June 30, 2020. At the District's Board of Trustees general meeting on March 9, 2021, the auditing firm, Eide Bailly LLP, presented the draft audit reports for the year ending June 30, 2020. Although the Board's agenda indicated that the reports could be found on the Measure X website, the 2020 Financial and Performance Audits were absent from the website until the site was updated in October 2021; however, they remain in draft form on the Measure X website.⁸³

After the Board of Trustees accepted the reports, the District presented the draft reports to the Oversight Committee during its March 23, 2021 quarterly meeting.⁸⁴ The draft 2020 Financial and Performance Audits were used to complete the Oversight Committee's legal requirement to certify the Measure X program as prescribed by state law.⁸⁵ In doing so, the District failed to provide to the Oversight Committee final, signed, dated, and certified versions of the audits from which the Oversight Committee could base its certification.

In examining the District's public coordination process for the 2020 audits, the Civil Grand Jury learned that the Board of Trustees' Budget and Audit Planning Committee was presented the finalized audits during its May 5, 2021 meeting. The 2020 Financial and Performance Audits were signed, dated April 30, 2021, and addressed to both the Board of Trustees and the Oversight Committee. Analyzing the meeting minutes for both the Board of Trustees and the Oversight Committee, the Civil Grand Jury found no public record or communication from the District showing that the finalized, certified audits were presented to the Oversight Committee.

As mentioned above, the Civil Grand Jury is concerned with the District's coordination process where the 2020 Performance and Financial Audits were presented and approved by the Board of Trustees before the auditing firm certified the audits as final. The Civil Grand Jury's concern extends to the length of time from initiating the Measure X audits until each were certified final by the auditing firm. In the Civil Grand Jury's judgement, the District's process is lengthy and

⁸³ Gavilan College Measure X Bond, Citizens' Bond Oversight Committee, "Financial and Performance Audits," February 25, 2021, <http://gavilanmeasurex.org/wp-content/uploads/2021/10/DRAFT-Measure-X-Audit-Reports.pdf>.

⁸⁴ Measure X Citizens' Bond Oversight Committee Meeting, March 23, 2021, Agenda Item 4. C, "Measure X Financial and Performance Audit Reports," accessed November 5, 2021, <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=BZ2M8259F1AE>.

⁸⁵ California Constitution, art. XIII A § 1(b)(3)(C)-(D), accessed November 26, 2021, https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CONS§ionNum=SECTION%201.&article=XIII%20A.

MEASURE X BOND PROGRAM: OVERSIGHT SHORTCHANGED

inefficient particularly when another area community college district demonstrated a timely and responsive production of audits just one quarter after their district’s fiscal year end. [Table 10](#) below provides a comparative reference for process timeliness of four area community college districts. ([Finding 10](#))

Community College District	Bond Program(s)	Year Ending	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Gavilan	Measure X	June 30, 2020	[Orange bar]											
West Valley-Mission	Measure C	June 30,2020	[Orange bar]											
	Measure W	June 30, 2020	[Orange bar]											
	Measure C	June 30, 2021	[Blue bar]											
	Measure W	June 30, 2021	[Blue bar]											
Foothill-DeAnza	Measure C	June 30, 2020	[Orange bar]											
San José-Evergreen	Measure X	June 30,2020	[Orange bar]											
	Measure G	June 30,2020	[Orange bar]											

Table 10. District Audit Report Timeliness⁸⁶

Timeliness legend

- The Orange bar represents the 2020 audit time to completion when the auditing firm dated and signed both the financial and performance audits.
- The blue bar represents the 2021 audit time to completion when the audit firm dated and signed both the financial and performance audits.

Performance audit thoroughness

Finally, when reviewing the performance audit for thoroughness, the report’s details are scant. The 2020 Measure X Performance Audit conclusion states, “The results of our test indicate that, in all significant respects, the District has properly accounted for the expenditures held in the Bond Construction Fund (Measure X) and that such expenditures were made for authorized Bond projects.”⁸⁷ Typically, a performance audit also includes details about the rate of progress of various projects specified in the original bond language or program guidelines including their

⁸⁶ The community college district audit reports used to create the timeliness chart and analysis are available at [Appendix 7](#).

⁸⁷ Gavilan Joint Community College District, Board of Trustees Budget and Audit Planning Committee Agenda Item 2.A. “Financial and Performance Audits, Bond Construction Fund (Measure X), June 30, 2020,” <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=C2KTND782B96>.

amendments.⁸⁸ This is to give the public a sense of progress and changes that have occurred over the term of the bond program. None of this detail was included in the 2020 Measure X Performance Audit.

As discussed under the [Training Opportunities](#) section of this report, the Civil Grand Jury attended the CABOC annual conference. During the conference, a keynote presentation was given by Moss Adams LLP, a leading accounting firm in the United States. The presentation titled “How to Perform an Effective Performance Audit” outlined the ways a performance audit can be used to improve operations, reduce costs, and strengthen compliance, reporting, and goal attainment.⁸⁹ The conference and keynote presentation provided important content and context to this subject and others used in this report.

⁸⁸ California Association of Bond Oversight Committees, “Panel B PowerPoint Presentation PDF (Slide 4),” October 16, 2021, https://www.bondoversight.org/wp-content/uploads/2021/10/ZZ-B-FINAL-CABOC_Conf_2021_Panel_B_reduced.pdf.

⁸⁹ California Association of Bond Oversight Committees, “First CABOC Statewide Conference,” accessed November 26, 2021, <https://www.bondoversight.org/caboc-conference/>.

CONCLUSION

Educational bonds are an important mechanism that community college districts use to improve aging infrastructure or expand their campuses to support students. Bonds finance major construction projects that last for generations but would be nearly impossible for the institution to afford with operating funds. In return for voters passing an educational bond, the District commits to provide the public with assurances, oversight, and deliverables which are written into the ballot measure as well as prescribed by California law.

An Independent Citizens' Bond Oversight Committee is a fundamental accountability mechanism. While each member brings a level of expertise and life experience, they may lack relevant skills that would be valuable and could be developed or augmented with additional training. More importantly, when Oversight Committee membership falls below the minimum requirement, it is the taxpayer who may not be represented by an essential and independent voice. It is also in the best interest of the District to ensure the Oversight Committee is equipped with the technical and administrative support required for it to be effective and maintain the public's trust.

In this report, the Civil Grand Jury suggests to the District possible alternatives to remedy the identified findings. Because of the Oversight Committee's responsibilities and the Board of Trustee's authority outlined in the bylaws, it will require a coordinated effort to work through the needs of the Oversight Committee and the responsibilities of the Board. But that work will be to a good end. By ensuring that the District's decisions and actions related to Measure X are in service to the students, taxpayers, and voters, the public's trust will follow.

While the Oversight Committee is appointed by the District, members ultimately serve the District's voters, residents, taxpayers, and students. The District's mission and authority are complex, but when expending bond monies, that activity comes with an expectation of effective oversight to protect the public's trust. Loss of public confidence would have a negative impact, including the potential lack of public support needed to pass future bond measures.

FINDINGS AND RECOMMENDATIONS

Finding 1

The District did not fulfill its responsibility to provide technical support to the Oversight Committee relating to conflict of interest requirements. Although the bylaws reference the Oversight Committee's ethical responsibilities, the requirements are written in legal terminology. The District did not adopt a Conflict of Interest Policy for the Oversight Committee as suggested by referencing Attachment A in the adopted bylaws.

Recommendation 1a

The District should create a plan to provide a conflict of interest policy to Oversight Committee members and incorporate the subject matter into the Oversight Committee's training and orientation. This recommendation should be implemented no later than April 30, 2022.

Recommendation 1b

The District should create a process for Oversight Committee members to evaluate and disclose conflicts of interests and incompatible activities. This recommendation should be implemented no later than April 30, 2022.

Finding 2

Current Oversight Committee membership falls below the minimum required by law. Failing to maintain members in the required affiliation category can create crucial vacancies where vital constituencies' voices may not be heard or adequately represented.

Recommendation 2

The Board of Trustees should appoint sufficient Oversight Committee members to meet or exceed the minimum number required by law. This recommendation should be implemented no later than April 30, 2022.

Finding 3

The District-approved Oversight Committee bylaws contain inconsistent and incomplete term limit provisions as specified in the Education Code. The District included a bylaw authorizing members to serve beyond the expiration of their third term while waiting for a replacement to be appointed. The District did not comply with the additional term limit provisions associated with the member serving in the student affiliation category. The student member may only serve six months after graduation with the specific approval of the Board of Trustees.

Recommendation 3a

The District should develop a plan to update the Oversight Committee bylaws to rescope the term limit bylaw addressing replacement holdovers as well as incorporate the additional student term limit provisions outlined in the Education Code. This recommendation should be implemented by April 30, 2022.

Recommendation 3b

The District should develop a plan to ensure that it abides by the term limit provisions required by law for its student affiliation category. The plan should also address the student's term limit provision on the Committee Member Term Chart provided by the District. This recommendation should be implemented by April 30, 2022.

Finding 4

There are areas in which the Oversight Committee might be perceived as having its independence questioned or compromised in relation to the administrative and technical support it receives through the District's contractor.

Recommendation 4

The District should identify and communicate to both the Oversight Committee and the public, the relationship the District's contractor has to the Oversight Committee regarding the Measure X program. The District should clarify the level of authority and independence the Oversight Committee has to request services from its contractor, AKG. This recommendation should be implemented by April 30, 2022

Finding 5

The "Measure X Bond Newsletter" has been dormant despite the District inviting members of the public to sign up for program updates. The newsletter service is identified in a contract agreement but has not been posted since the September 2019 issue as reflected on the Measure X website.

Recommendation 5

The District should develop a plan to provide the necessary resources to revive the "Measure X Bond Newsletter". This recommendation should be implemented no later than April 30, 2022.

Finding 6

The District does not provide Oversight Committee members with a clear, direct, or transparent way of receiving electronic communications from the public. There is a standing agenda item for this type of direct communication, but an effective accompanying tool does not exist for Oversight Committee members to receive and respond to this type of communication.

Recommendation 6

The District should develop a plan to institute an electronic communication tool to contact the Oversight Committee directly. The District needs to provide an appropriate communication tool to foster public engagement, correspondence, and feedback. This recommendation should be implemented no later than April 30, 2022.

Finding 7

The District did not follow established norms and protocols for posting meeting notifications and announcements specifically associated with cancelled meetings. Additionally, the District has inhibited the public's ability to access agendas and meeting materials because the link to the agenda is not clear and the multiple steps required to navigate to the meeting materials is unduly complicated.

Recommendation 7a

The District should create a plan to update meeting announcements published on the Measure X homepage to prominently identify the webpage links to access the meeting agenda. This recommendation should be implemented no later than April 30, 2022.

Recommendation 7b

The District should review the structure and navigation to meeting agendas and create a plan that addresses the public's need for efficient access to agendas and meeting materials. This recommendation should be implemented no later than April 30, 2022.

Finding 8

The orientation the District provides to the Oversight Committee does not adequately prepare members to effectively carry out their roles and responsibilities. The District provides a general overview using reference materials. More in-depth and specialized training is needed to ensure committee members are equipped to fulfill their oversight responsibilities.

Recommendation 8

The District should provide detailed and targeted training to members of the Oversight Committee. A training plan should be developed with input from the Oversight Committee. This recommendation should be implemented no later than June 30, 2022.

Finding 9

The District did not provide the Oversight Committee with any information about initiatives to maximize bond revenues through the use of cost-saving measures such as joint-use facilities. As a result, the Oversight Committee was not able to communicate those initiatives to the public, which led to the mistaken impression that none were considered.

Recommendation 9

The District should develop a plan to communicate the ways in which the District has identified or enacted cost-saving measures to the Oversight Committee. This recommendation should be implemented no later than April 30, 2022.

Finding 10

The District did not provide the Oversight Committee with timely, certified final financial and performance audits to review. The District's 10-month drawn-out process put the Oversight Committee in the position of issuing an annual report with a constitutionally mandated compliance statement using draft audits. Those draft audit reports remain on the Measure X website. The draft audits lack a date and auditor's signature and therefore are not certified, despite final versions being provided to the Board of Trustees Budget and Audit Planning Committee.

Recommendation 10a

The District should provide the dated and certified 2020 Financial and Performance Audits to the Oversight Committee. The audits should also be posted to the Measure X website for public disclosure. This recommendation should be implemented no later than April 30, 2022.

Recommendation 10b

The District should create a plan with appropriate milestones to ensure the timely completion of annual, independent financial and performance audits. Milestones should include when audits are expected to be available for the Oversight Committee to receive and review, the District's responses to the audits for Oversight Committee review, and when the final signed and dated audits are to be posted to the Measure X website. This recommendation should be implemented no later than April 30, 2022.

REQUIRED RESPONSES

Pursuant to California Penal Code § 933(b) et seq. and California Penal Code § 933.05, the 2021 Civil Grand Jury of Santa Clara County requests responses from the following governing bodies:

Responding Agency	Findings	Recommendations
The Gavilan Joint Community College District	1, 2, 3, 4, 5, 6, 7, 8, 9, 10	1a, 1b, 2, 3a, 3b, 4, 5, 6, 7a, 7b, 8, 9, 10a, 10b

APPENDIX 1 – Measure E⁹⁰

Gavilan College Job Training, Overcrowding, Repair/Safety Measure: To prepare students for jobs/four-year colleges, accommodate increasing enrollment and upgrade Gavilan College campuses in Gilroy, San Benito County and the greater Morgan Hill area by:

- Improving fire safety and security;
- Upgrading plumbing/sewer systems;
- Upgrading wiring for computer technology;
- Repairing, acquiring, constructing, equipping classrooms, buildings, libraries and sites

Shall Gavilan Joint Community College District issue \$108,000,000 in bonds at legal rates with citizen oversight, guaranteed annual audits, no money for administrators' salaries?

PROJECTS

The Board of Trustees of the Gavilan Joint Community College District evaluated the District's urgent and critical facility needs, including safety issues, enrollment growth, energy efficiency and information and computer technology, in developing the scope of projects to be funded, as outlined in the Gavilan College Facilities Master Plan, dated January 9, 2001, updated on November 11, 2003, incorporated herein, and as shall be further amended from time to time. In developing the scope of projects, the faculty, staff and students have prioritized the key health and safety needs so that the most urgent and basic repairs that will make Gavilan College operational and safe for learning are included. The Board conducted independent facilities evaluations and received public input and review in developing the scope of college facility projects to be funded, as listed in the Facilities Master Plan which was unanimously approved by the Board of Trustees. This input of faculty, community and business leaders concluded that it would be less expensive to upgrade and repair aging community college buildings and classrooms now, than in the future. In preparing the Facilities Master Plan, the Board of Trustees made three critical determinations:

1. In tough economic times, community colleges, including Gavilan College, are critically important to re-train people who want to expand their job skills;
2. Statewide budget cuts are damaging Gavilan College's ability to provide a high-quality college education for local students; and
3. Because University of California and California State University systems are becoming more expensive, more people rely on community colleges, therefore Gavilan College must be upgraded so it can provide local students with a high-quality education they might not otherwise receive.

The Facilities Master Plan is on file at the District's Office of the Superintendent/President, and includes the following projects:

⁹⁰ League of Women Voters of California Education Fund, "Measure E Gavilan College Job Training, Overcrowding, Repair/Safety Measure Gavilan Joint Community College District," accessed November 3, 2021, <http://www.smartvoter.org/2004/03/02/ca/scl/meas/E/>.

GAVILAN COLLEGE - GILROY CAMPUS

- **Repair, Upgrade, and/or Replace Aging Obsolete Classrooms, Science Labs, Instructional Facilities, Sites and Utilities:**
Repair, renovate and/or replace deteriorating roofs, corroding pipes and power lines, plumbing, sewer, drainage, electrical systems, wiring, unsanitary and run down bathrooms, antiquated boiler systems, telecommunications, foundations, classrooms, fields and grounds, science laboratories, pools, lecture halls, performing arts, and other instructional facilities, wire classrooms for computers and technology, increase campus security, installation and repair of fire safety equipment, including alarms, smoke detectors, sprinklers, emergency lighting, fire safety doors, increase energy efficiency, reduce operating costs and improve job training and academic instruction, and meet legal requirements for disabled access.
- **Safety Improvements:**
Upgrade existing fire alarms, sprinklers, smoke detectors, intercoms and fire doors; install security systems, exterior lighting, emergency lighting, door locks and fences.
- **Expand Job Training and Academic Classroom, Library and Facility Capacity:**
Increase classroom capacity for academic and job training classes, including math, business, english, science labs, library complex, physical and health education facilities; upgrade, repair, equip, and expand student services buildings to include academic and job training and counseling centers, study areas, lecture/meeting/seminar rooms, computer hook-up and other student support, as well as fine and performing arts, labs; expand maintenance building to support facilities, high technology learning resource center, and classrooms for partnering with a 4-year university to allow residents to obtain a bachelor's degree without commuting.
- **Energy Efficiency Improvements; Repair, Replace and Upgrade Electrical, Mechanical, Old Boiler and Energy Systems To Reduce Energy Consumption:**
Replace old boiler and energy systems, heating, ventilation and air conditioning system and related utility systems; energy efficiency projects designed to increase efficiency.
- **Information Technology Wiring and Equipment:**
Upgrade electrical systems and wiring for computer technology and Internet access; upgrade and replace outdated technology including computers, laboratory equipment and classroom furnishings.
- **Refinance Existing Lease Obligations To Lower Interest Rates and Increase Funds Available For Instruction and Ongoing Maintenance of Classrooms and Buildings.**
- **Safety and Security; Sites; Site Accessibility; Improve Emergency Access:**
Improve pedestrian access routes across campus for safety; improve campus safety and security by adding exterior lighting; implement safety upgrades to relieve gridlock, traffic flow and parking congestion; redesign campus walkways to eliminate unsafe conditions; repair or replace outdated natural gas, water, sewer, storm drain systems; acquire property to expand student capacity, alleviate traffic congestion in neighborhoods adjacent to campus, increase access for emergency vehicles; add parking to accommodate increasing student population.

GAVILAN COLLEGE - SAN BENITO CAMPUS

- **Establish Gavilan College Education Center in San Benito County to Accommodate Growth and Increasing Student Enrollment:**

Provide permanent classrooms, labs, library, job training and college transfer counseling and partner with a 4-year university to allow residents to obtain a bachelor's degree without commuting. Improvements in the San Benito County campus will be made with a combination of bond monies and State matching funds.

GAVILAN COLLEGE - GREATER MORGAN HILL AREA CAMPUS

- **Establish Gavilan College Education Center to Accommodate Growth and Increasing Student Enrollment:**

To provide permanent classrooms, labs, job training and college transfer counseling buildings facilities in the Greater Morgan Hill area, including the acquisition of a site(s) to allow local students greater access to an affordable education. Improvements in the Greater Morgan Hill area campus will be made with a combination of bond monies and State matching funds.

Listed repairs, rehabilitation projects and upgrades will be completed as needed. Each project is assumed to include its share of equipment, architectural, engineering, and similar planning costs, construction management, and a customary contingency for unforeseen design and construction costs. The allocation of bond proceeds will be affected by the District's receipt of State matching funds and the final costs of each project. The budget for each project is an estimate and may be affected by factors beyond the District's control. The final cost of each project will be determined as plans are finalized, construction bids are awarded, and projects are completed.

The bond program is designed to provide facilities which will serve current and expected enrollment. In the event of an unexpected slowdown in development or enrollment of students at Gavilan College, or its several outreach centers, certain of the projects described above will be delayed or may not be completed. In such case, bond money will be spent on only the most essential of the projects listed above. The District will work with the Citizens' Oversight Committee on prioritizing those projects in the event factors beyond the District's control require that project be reconsidered.

FISCAL ACCOUNTABILITY. THE EXPENDITURE OF BOND MONEY ON THESE PROJECTS ARE SUBJECT TO STRINGENT FINANCIAL ACCOUNTABILITY REQUIREMENTS. PERFORMANCE AND FINANCIAL AUDITS WILL BE PERFORMED ANNUALLY, AND ALL BOND EXPENDITURES WILL BE MONITORED BY AN INDEPENDENT CITIZENS' OVERSIGHT COMMITTEE TO ENSURE THAT FUNDS ARE SPENT AS PROMISED AND SPECIFIED. THE CITIZENS' OVERSIGHT COMMITTEE MUST INCLUDE, AMONG OTHERS, REPRESENTATION OF A BONA FIDE TAXPAYERS ASSOCIATION, A BUSINESS ORGANIZATION AND A SENIOR CITIZENS ORGANIZATION. NO DISTRICT EMPLOYEES OR VENDORS ARE ALLOWED TO SERVE ON THE CITIZENS' OVERSIGHT COMMITTEE.

NO ADMINISTRATOR SALARIES. PROCEEDS FROM THE SALE OF THE BONDS AUTHORIZED BY THIS PROPOSITION SHALL BE USED ONLY FOR THE CONSTRUCTION, RECONSTRUCTION, REHABILITATION, OR REPLACEMENT OF COLLEGE FACILITIES, INCLUDING THE FURNISHING AND EQUIPPING OF

COLLEGE FACILITIES, AND NOT FOR ANY OTHER PURPOSE, INCLUDING TEACHER AND ADMINISTRATOR SALARIES AND OTHER OPERATING EXPENSES. BY LAW, ALL FUNDS CAN ONLY BE SPENT ON REPAIR AND IMPROVEMENT PROJECTS.

APPENDIX 2 – Ethics Policy Statement

In reviewing the bylaws of various community college districts, the Civil Grand Jury noted a relevant difference regarding how the districts used and translated the Government and Education Codes into policy. Their use of the Ethics Policy Statement provided conforming, enforceable conflict of interest policy for their committee members. [Table A2](#) below shows community college districts that incorporate an Ethics Policy Statement into their bylaws.

Community College District	Bylaws	Ethics Policy Statement
Foothill-DeAnza ⁹¹	Jun-2020	Yes Attachment A
Hartnell ⁹²	Nov-2010	Yes Attachment A
Monterey Peninsula College ⁹³	Jan-2021	Yes Attachment A
West Valley-Mission ⁹⁴	Feb-2019	Yes Attachment A

Table A2. District Bylaws and Ethics Policy Statements

An example of [Attachment A](#) follows on the next page.

⁹¹ Foothill-DeAnza Community College District Measure G & C Bonds Citizens’ Bond Oversight Committee, “Bylaws,” accessed November 20, 2021, <https://bonds.fhda.edu/bylaws/>.

⁹² Hartnell College Measure H Bond Oversight Committee, “Bond Agendas, Minutes and Documents,” accessed November 20, 2021, https://www.hartnell.edu/sites/default/files/Library_Documents/measure_h/Bond_Oversight_Bylaws.pdf.

⁹³ Monterey Peninsula College Citizens’ Bond Oversight Committee for Measures I & V, “CBOC Bylaws (Measures I & V),” accessed November 20, 2021, <https://www.mpc.edu/home/showpublisheddocument/38982/637475323777970000>.

⁹⁴ West Valley-Mission Community College District Citizens’ Bond Oversight Committee, “2019 Amended and Restated By-laws,” accessed November 20, 2021, <https://wvm.edu/committees/cboc/Documents/2019%20Amended%20By-laws.02.05.19.pdf>.

Ethics Policy Statement⁹⁵

(Attachment A to Oversight Committee Bylaws)

This Ethics Policy Statement provides general guidelines for Committee members to follow in carrying out their roles. Not all ethical issues that Committee members face are covered in this Statement. However, this Statement captures some of the critical areas that help define ethical and professional conduct for Committee members. The provisions of this Statement were developed from existing laws, rules, policies, and procedures as well as from concepts that define generally accepted good business practices. Committee members are expected to strictly adhere to the provisions of this ethics policy.

POLICY

CONFLICT OF INTEREST. A Committee member shall not make or influence a District decision related to: (1) any contract funded by bond proceeds; or (2) any construction project which will benefit the Committee member’s outside employment, business, or a personal finance or benefit an immediate family member, such as a spouse, child, or parent.

OUTSIDE EMPLOYMENT. A Committee member shall not use his or her authority over a particular matter to negotiate future employment with any person or organization that relates to: (1) any contract funded by bond proceeds, or (2) any construction project. A Committee member shall not influence a District decision related to any construction project involving the interest of a person with whom the member has an agreement concerning current or future employment, or remuneration of any kind. For a period of two (2) years after leaving the Committee, a former Committee member may not represent any person or organization for compensation in connection with any matter pending before the District that, as a Committee member, he or she participated in personally and substantially. Specifically, for a period of two (2) years after leaving the Committee, a former Committee member and the companies and businesses for which the member works shall be prohibited from contracting with the District with respect to: (1) bidding on projects funded by the bond proceeds; and (2) any construction project.

COMMITMENT TO UPHOLD LAW. A Committee member shall uphold the Federal and California Constitutions, the laws and regulations of the United States and the State of California (particularly the Education Code) and all other applicable government entities, and the policies, procedures, rules and regulations of the District.

COMMITMENT TO DISTRICT. A Committee member shall place the interests of the District above any personal or business interest of the member.

I have read and agree to comply with this Ethics Policy. I understand that failure to adhere to this policy may result in my removal from the Citizens’ Bond Oversight Committee.

Signature: _____ Date: _____

⁹⁵ Hartnell College Measure T Bond Oversight Committee, “Measure T Citizens’ Bond Oversight Committee Ethics Policy Statement,” accessed November 22, 2021, https://www.hartnell.edu/sites/default/files/Library_Documents/measure_t/measure_t_citizens_bond_oversight_committee_ethics_statement.pdf.

APPENDIX 3 – The Brown Act⁹⁶

California Brown Act Primer

I. Introduction

Note: This primer was created in 2006

The Ralph M. Brown Act (Government Code sections 54950-54963, referred to as the “Brown Act”) is intended to provide public access to meetings of California local government agencies. Its purpose is described in the Act:

“The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.” Gov’t Code § 54950.

In order to achieve this objective, governmental bodies subject to the requirements of the Brown Act must provide public notice of their meetings, post agendas of the subjects to be discussed at those meetings, and provide public access to those meetings. Public notice of every meeting subject to the Brown Act is required, and access is mandatory unless the meeting is held in closed session under a specific exception contained in the Act.

However, the Brown Act is complex, and problems often arise in application. The following issues come up consistently:

- (1) What kinds of public bodies are subject to the Act?
- (2) Has the public body properly given notice of the matters it intends to address in the agenda for the meeting?
- (3) What constitutes a “meeting,” and what kinds of communications among members of a legislative body are permitted outside of meetings?
- (4) Are the exceptions permitting closed sessions are being properly applied?

In this primer we will walk you through our summary of the Brown Act that aims to explain some of the intricacies of the Act that have led to both litigation and abuse by the agencies it governs and make it more useful to its users.

II. What public bodies are subject to the Act?

Public bodies subject to the Act include:

A. The governing body of a local agency or any other local body created by state or federal law. Thus, entities such as city councils, boards of supervisors, school boards, redevelopment agencies, and air pollution control boards are covered. The judiciary is not covered. State agencies and the legislature are covered by separate, similar acts.

B. A commission, committee, board, or other body of a local agency created by charter, ordinance, resolution, or formal action of a legislative body.

Advisory committees composed solely of the members of the legislative body that constitute less than a quorum and that have neither a continuing scope of business nor a schedule set by the legislative body are not covered by the Act.

- Standing committees are included if they have schedules fixed by official action irrespective of their composition. For example, a standing committee of a city council, such as a budget committee or a rules committee, would be subject to the Brown Act. However, an ad hoc committee consisting of three out of seven council members appointed to investigate a claim of fraud would not be. (The Brown Act would apply if a citizen or someone else who was not a member of the council was appointed to the committee.)
- In addition, while a standing committee that meets pursuant to a regular schedule is always subject to the Brown Act, even standing committees that meet infrequently or sporadically are subject to the Brown Act if they consist of more than a quorum, or if they have ongoing authority to address issues with the subject matter jurisdiction of parent body.

⁹⁶ First Amendment Coalition (FAC), “Brown Act Primer,” accessed November 24, 2021, <https://firstamendmentcoalition.org/facs-brown-act-primer/>.

C. A board, commission, committee or other multimember body that governs a private entity that either:

- Is created by that entity to exercise authority on its behalf; or
- Receives funds from a local agency and has on its governing board a member of that agency's legislative body who is appointed by the legislative body.

For example:

- (1) If a city creates a special local assessment district, collects assessments from local property owners, and provides by ordinance that the programs paid for with those funds will be governed by a non-profit association, the non-profit corporation set up to govern those programs will be subject to the Act;⁴ Gov't Code § 54952(c)(1). and
- (2) if a private, non-profit corporation receives funds from a city, and the corporation has a council member on its board who has been appointed by the city council, the corporation will be subject to the Act.

D. The governing board of private corporation to which a public hospital district has turned over control of a hospital.

E. State agencies are not covered by the Brown Act, but are subject to the Bagley-Keene Open Meetings Act, which is very similar to the Brown Act. The courts and court administrative offices are exempt from state open meeting laws.

III. What notice must be given of a public meeting?

A. Advance notice of meetings must be provided:

Regular meetings must be noticed through the posting of an agenda at least 72 hours before the meeting. (You may request that a copy of the agenda and "all documents constituting the agenda packet" be mailed to you. They will be mailed when the agenda is posted or when it is distributed to a majority of the legislative body, whichever is first. The agency may charge a fee for mailing the materials, not to exceed the cost of providing the mailing service.)

Special meetings may be called, but only upon 24-hour notice to each local newspaper of general circulation, radio or television station that has in writing requested notice. The notice must be posted in a location freely accessible to the public. Only the business specified for discussion at the special meeting may be addressed.

Emergency meetings may be called under specific, drastic circumstances ("work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body"). The 24-hour notice is not necessary, but a 1-hour notification of those media requesting notice is necessary if possible.

B. The agenda must contain a brief description of each item of business to be transacted (generally not to exceed 20 words).

Agenda descriptions must not be misleading. According to the California Attorney General's guide to the Brown Act, "the purpose of the brief general description is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting of the body." For example, using the agenda item "flood control" to refer to a discussion on a request to Congress to exempt a certain stream from the Wild and Scenic Rivers Act would be clearly inadequate.

Closed session items must be included on the agenda.

- (a) They must be described with enough particularity to protect the confidentiality of the subject to be discussed, but at the same time provide the public with a general idea of the topic being discussed in closed session. (See the discussion below of what must be included for specific exemptions.)
- (b) The Act actually spells out the recommended content of closed session agenda notices, and provides a "safe harbor" ensuring that government agencies will not be in violation of the agenda requirements of the Act if they follow the recommended format.

C. No action can be taken on items not on the agenda, except:

- Brief responses to public testimony.
- Requests for clarification from or references of matters to staff.
- Brief reports on personal activities.
- When there is an emergency (see above).
- When two-thirds of the legislative body agree there is a need to take immediate action on a matter about which the body could not have been aware earlier (see above).

IV. What is a meeting?

A. A meeting as defined by the Act includes any “congregation by a majority” of a legislative body at the same time and place to “hear, discuss, or deliberate” on any matter within the jurisdiction of the body.

As the Attorney General explains: *“This definition makes it clear that the body need not take any action in order for a gathering to be defined as a meeting. A gathering is a meeting if a majority of the members of the body merely receive information or discuss their views on an issue. A meeting also covers a body’s deliberations, including the consideration, analysis or debate of an issue, and any vote which may ultimately be taken.”*

A meeting does not have to be formally announced, agendaized, or convened in order to be subject to the Act.

B. Serial meetings, either in person or by telephone or fax or go-betweens, constitute a meeting if done to **“develop a collective concurrence as to action.”**

- For example, a series of individual telephone calls between the attorney for the redevelopment agency and the members of the agency’s governing board was held to constitute a meeting. The agency attorney had individually polled the members of the body to get their approval for a real estate transaction. The court concluded that even though the members never met together, their communications constituted a meeting for the purposes of the Act.
- Similarly, when the San Diego City Council directed staff to take certain action in an eminent domain proceeding in a letter signed by a quorum of the council, the court held that it had violated the Brown Act.
- Addressing e-mail communications, the Attorney General has opined as follows: “This office [has] concluded that a majority of a body would violate the Act if they e-mailed each other regarding current issues under the body’s jurisdiction, even if the e-mails were also sent to the secretary and chairperson of the agency, the e-mails were posted on the agency’s Internet Web site, and a printed version of each e-mail was reported at the next public meeting of the body. The opinion concluded that these safeguards were not sufficient to satisfy either the express wording of the Act or some of its purposes. Specifically, such e-mail communications would not be available to persons who do not have Internet access. Even if a person had Internet access, the deliberations on a particular issue could be completed before an interested person had an opportunity to become involved.”
- On the other hand, the California Supreme Court has held that a memorandum from a public body’s attorney to the members of the body did not constitute a meeting under the Act.

Note that it has been held that the public body need not actually take formal action through the serial meeting in order to have conducted a “meeting” in violation of the Act. One court has concluded that the Act applies equally to the deliberations of a body and its decision to take action. The court reasoned that if a collective commitment were a necessary element, the body could conduct most or all of its deliberation behind closed doors, as long as the body did not actually reach agreement prior to consideration in public session.

C. Exempted from the definition of a meeting are:

- Individual contacts or conversations.
- Attendance of a majority of members at a conference open to the public that involves a discussion of general interest to the public or “to the public agencies of the type” attending the conference provided the members do not discuss legislative business among themselves. Fees may be charged to members of the public.
- Attendance by a majority of the members at an open and publicized meeting called by someone other than the legislative body to discuss topics of community interest.
- Attendance by a majority of members at an open and publicized meeting of another body of the local agency, provided the members do not discuss among themselves matters within their jurisdiction that is not the subject of the meeting.
- Attendance at a ceremonial or social event by a majority of members provided they do not discuss among themselves matters within their jurisdiction.
- The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

D. The meeting must be held within the boundaries of the agency’s jurisdiction, except:

- When necessary to comply with state or federal law or court order.
- To inspect real or personal property over which the agency has control, provided it is the topic of the meeting is related to the property.

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- To participate in multi-agency meetings, provided that the meeting is properly noticed by all the agencies and that the meeting takes place in the jurisdiction of one of the agencies involved.
- To meet with federal or state officials when a local meeting would be impractical, solely to discuss matters of relevance with such officials.
- To meet at the closest meeting facility or the principal office of the body if there exists no meeting facility within the jurisdiction of the body.
- To meet at a facility outside of the jurisdiction if the facility is owned by the body, provided the discussion at the meeting is limited to items directly related to the facility.
- To visit legal counsel to discuss pending litigation when to do so would reduce fees.
- School boards may meet outside of the District on a variety of labor and employment matters.
- Statewide joint powers authorities may meet within the territories of anyone in their organization.

E. Regular meetings must be held at a time, place, and location fixed by official action (e.g., bylaws, ordinance, resolution). If it is unsafe to meet at the designated place due to an emergency, the new location must be publicized by a notice to the local media in the most rapid means of communication available at the time.

- The meeting place must be accessible to all members of the public.
- No fees may be charged for admission to meetings.
- Registration of one's name or any other condition of admission is prohibited.
- Cameras, both still and video, and tape recorders are permitted, and any recording of a meeting subject to the Act made at the direction of the public body is a public record.
- Public bodies must permit broadcast of their meetings, unless they can demonstrate that doing so would cause a persistent disruption of their proceedings.

F. Records distributed at a public meeting are public records, unless otherwise exempted under the Public Records Act. The public is entitled to obtain them at the meeting if they were prepared by the public agency, or after the meeting if prepared by someone else. (This does not mean that the agency does not have to provide them prior to the meeting if they are available, only that it must make them available by the time of the meeting at the latest.)

G. Time must be provided for comment by the public.

- Public bodies may impose time limitations on public comment.
- Public bodies may not prohibit criticism of “the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.”
- The ability to speak and offer criticism at the meetings of public bodies is also protected by the First Amendment. In particular, the First Amendment has been held to protect the right of citizens to criticize the conduct of particular government officials and employees at public meetings.

V. Closed Sessions: When may the public be excluded?

The public may not be excluded from a meeting, except as expressly authorized by the Brown Act.

A public body may exclude the public from meetings, holding what are called “closed sessions” or “executive sessions,” in the following circumstances:

- (1) to determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license;
- (2) to with its negotiator to grant authority regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property;
- (3) to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation;
- (4) to meet with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, or a threat to the public's right of access to public services or public facilities;
- (5) to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee;

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- (6) to meet with the local agency's designated representatives regarding the salaries, salary schedules, or fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

There are also a number of other narrow circumstances in which closed sessions may be held.

However, although there are many provisions permitting closed sessions, certain provisions are more commonly invoked, and hence are more frequently the subject of questions and disputes. Those provisions are discussed below.

A. Meetings with a body's negotiator prior to the purchase, sale, exchange or lease of real property in order to grant authority to the negotiator regarding the price and terms of payment.

- The closed session notice should state the address of the property, the identity of the negotiator, and whether the instruction will concern price, payment terms, or both.
- Prior to the closed session, the public body must hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

Note: This provision has been the subject of considerable abuse. For example, government agencies involved in enormous, multi-faceted transactions have used a real property portion of the potential transaction to discuss the entire matter in secret. It has also been invoked to cover meetings attended by representatives of the adverse party in the negotiation.

B. Meetings to discuss "pending litigation." This exception has been carefully crafted due to frequent past disputes.

- Litigation is any adjudicatory proceeding.
- Pending litigation is:
 - (a) litigation formally initiated to which the body is a party;
 - (b) a situation where based on the advice of counsel taking into account "existing facts and circumstances" there exists a "significant exposure" to litigation; or
 - (c) when the agency itself has decided or is deciding whether to initiate litigation.
- For existing litigation, the closed session notice should state the name of the case or parties (unless it would jeopardize service of process or existing settlement negotiations), and for anticipated litigation or litigation the agency is considering initiating, it should state the number of potential cases.
- Prior to holding a closed session pursuant to this section, the legislative body of the local agency must state on the agenda or publicly announce the subdivision of this section that authorizes the closed session. If the session is closed pursuant to subdivision (a), the body must state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

C. Meetings with law enforcement or security consultants about threats to the security of public buildings, to essential public services, or to the public's right of access to public services or public facilities;

- The closed session notice should identify the law enforcement agency and state the name and title of the law enforcement official.

Note: Expect to see this exception invoked with increasing frequency.

D. Meetings to discuss the appointment, employment, evaluation of performance, discipline or dismissal of a public employee or to hear complaints brought against the employee.

1. The closed session notice should state the position to be filled or the title of the employee being reviewed. It need not do so in the case of complaints.
2. **Note:** An elected official is not a public employee.
3. **Note:** The employee may request a public hearing.

VI. After a closed session

A. The agency must publicly report action taken in closed session as follows:

1. Approval of an agreement concluding real estate negotiations immediately if the closed session results in a final agreement, and upon inquiry if the agreement is finalized thereafter.

2. Action taken on claims.
3. Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee by title of position.
4. Approval of a labor agreement.
5. The public is entitled to copies of contracts, settlement agreements, and other documents approved by the public body and subject to any of these reporting requirements.

B. Records maintained during a closed session.

1. A local agency may maintain a minute book for actions taken during a closed session, but is not required to do so.
2. If it does maintain a minute book, or similar documentation, such records are not a public record.
3. Absent court order, a local agency is not required to record its closed sessions.

VII. Enforcement of the Brown Act

A. A knowing violation of the Brown Act with the intent to deprive the public of information to which it is entitled is a crime. However, no one has ever been successfully prosecuted for a violation of the Brown Act.

B. Individual citizens may bring essentially three types of legal suits to enforce the Brown Act: a suit over a government entity's alleged violation of the Act based on that entity's *past* violation of the Brown Act; a suit to contest or enjoin *ongoing or future* actions in alleged violation of the Brown Act; and a suit to *void* an action taken by a government entity in alleged violation of the Brown Act.

Challenging past actions to stop their recurrence:

Under amendments to the Brown Act adopted in 2012, persons alleging a past violation of the Brown Act, and seeking to bar further violations—but NOT to invalidate a specific government decision or action—must first attempt to resolve the matter, short of litigation, through an elaborate settlement procedure set forth in Government Code section 54960.2, as follows:

- 1) Within 9 months of the violation, a complainant must file a “cease and desist” letter with the government entity “clearly describing the past action of the legislative body and nature of the alleged violation.” Gov Code sec. 54960.2(1)
- 2) The legislative body has 60 days to respond with “an unconditional commitment to cease, desist from, and not repeat the past action.” Gov Code sec 54960.2(a)(4). (If it makes such a commitment within 30 days, the government body will immunize itself against any claim, in the course of litigation, for payment of the complainant's attorney's fees or costs, Gov Code Sec. 54960.2(b))
- 3) If the Government body responds with a timely and unconditional commitment, that will be the end of the dispute (unless, subsequently, the agency reneges on its commitment). However, if the government doesn't respond, or responds unsatisfactorily or conditionally, the complainant may file suit, and must do so within 60 days. Gov Code Sec. 54960.2(a)(4).

Barring an ongoing or future action:

1) “. . . any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter . . . or to determine the applicability of this chapter to ongoing actions or threatened future actions. . . of the legislative body.” Gov Code Sec 54960(a). Because, practically speaking, lawsuits seeking injunctive relief against future actions usually are based on evidence of past violations, most cases involving prospective relief will be brought under Gov Code section 54960.2, discussed above.

Suits to Void Past Action:

If a complainant's objective is to have a court declare a government action *null and void* on account of a Brown Act violation, the procedure spelled out in Gov Code Sec 54960.1 (a) applies. Notice and a demand to “cure and correct” the violation must be given, in writing, within 90 days from the date the action was taken (30 days if the basis for the notice is that the action was not on an agenda or not adequately described). The local agency has 30 days to take action. If the local agency responds and refuses to correct the problem or does nothing, the challenger has 15 days to initiate court proceedings to nullify the action.

C. Other

The District Attorney or a member of the public may also sue to obtain a ruling that the local agency is violating the free speech rights of a member in seeking to silence that member. In all Brown Act cases brought by citizens, attorneys' fee.

APPENDIX 4 – Measure X Oversight Committee Bylaws⁹⁷

GAVILAN JOINT COMMUNITY COLLEGE DISTRICT INDEPENDENT CITIZENS' BOND OVERSIGHT COMMITTEE BYLAWS

Section 1. Committee Established. The Gavilan Joint Community College District (the “District”) was successful at the election conducted on November 6, 2018 (the “Election”) in obtaining authorization from the voters within the District to issue up to \$248,000,000 aggregate principal amount of the District’s school facilities bond (“Measure X”). The Election was conducted under Proposition 39, being chaptered as the Strict Accountability in Local School Construction Bonds Act of 2000, at Section 15264 *et seq.* of the Education Code of the State (“Prop 39”). Pursuant to Section 15278 of the Education Code, the District is now obligated to establish an Independent Citizens’ Bond Oversight Committee in order to satisfy the accountability requirements of Prop 39. The Board of Trustees of the Gavilan Joint Community College District (the “Board”) hereby establishes the Independent Citizens’ Bond Oversight Committee (the “Committee”) which shall have the duties and rights set forth in these Bylaws. The Committee does not have legal capacity independent from the District.

Section 2. Purposes. The purposes of the Committee are set forth in Prop 39, and these Bylaws are specifically made subject to the applicable provisions of Prop 39 as to the duties and rights of the Committee. The Committee shall be deemed to be subject to the *Ralph M. Brown Public Meetings Act* of the State of California and shall conduct its meetings in accordance with the provisions thereof. The District shall provide necessary administrative support to the Committee as shall be consistent with the Committee’s purposes, as set forth in Prop 39.

The proceeds of general obligation bonds issued pursuant to the Election are hereinafter referred to as “bond proceeds.” The Committee shall confine itself specifically to bond proceeds generated under Measure X. Regular and deferred maintenance projects and all monies generated under other sources shall fall outside the scope of the Committee’s review. However, to the extent that facilities are financed with a combination of the Measure X monies and other non-bond funds, such projects shall be subject to Committee oversight and review.

Section 3. Duties. To carry out its stated purposes, the Committee shall perform only the duties set forth in Sections 3.1, 3.2, and 3.3 hereof, and shall refrain from those activities set forth in Sections 3.4 and 3.5.

3.1 **Inform the Public.** The Committee shall inform the public concerning the District’s expenditure of bond proceeds. In fulfilling this duty, all official communications to either the Board or the public shall come from the Chair acting on behalf of the Committee. The Chair shall only release information that reflects the majority view of the Committee.

3.2 **Review Expenditures.** The Committee shall review expenditure reports produced by the District to ensure that (a) bond proceeds were expended only for the purposes set forth in Measure X; and (b) no bond proceeds were used for teacher or administrative salaries or other operating expenses in compliance with Attorney General Opinion 04-110, issued on November 9, 2004.

⁹⁷ Gavilan College Measure X Bond, Citizens’ Bond Oversight Committee, “Committee Bylaws,” accessed October 24, 2021, <http://gavilanmeasurex.org/wp-content/uploads/2019/04/Bylaws-for-CBOC-Gavilan-Joint-CCD.pdf>.

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3.3 Annual Report. The Committee shall present to the Board, in public session, an annual written report which shall include the following:

- (a) A statement indicating whether the District is in compliance with the requirements of Article XIII A, Section 1(b)(3) of the California Constitution; and
- (b) A summary of the Committee's proceedings and activities for the preceding year.

3.4 Duties of the Board/Superintendent/President. Either the Board or the Superintendent/President, as the Board shall determine, shall have the following powers reserved to it, and the Committee shall have no jurisdiction over the following types of activities:

- (i) Approval of contracts,
- (ii) Approval of change orders,
- (iii) Expenditures of bond funds,
- (iv) Handling of all legal matters,
- (v) Approval of project plans and schedules,
- (vi) Approval of all scheduled maintenance plans, and
- (vii) Approval of the sale of bonds.

3.5 Measure X Projects Only. In recognition of the fact that the Committee is charged with overseeing the expenditure of bond proceeds, the Board has not charged the Committee with responsibility for:

- (a) Projects financed through the State of California, developer fees, redevelopment tax increment, certificates of participation, lease/revenue bonds, the general fund or the sale of surplus property without bond proceeds shall be outside the authority of the Committee.
- (b) The establishment of priorities and order of construction for the bond projects, which shall be made by the Board in its sole discretion.
- (c) The selection of architects, engineers, soils engineers, construction managers, project managers, CEQA consultants and such other professional service firms as are required to complete the project based on District criteria established by the Board in its sole discretion.
- (d) The approval of the design for each project including exterior materials, paint color, interior finishes, site plan and construction methods (modular vs. permanent) which shall be determined by the Board in its sole discretion.
- (e) The selection of independent audit firm(s), performance audit consultants and such other consultants as are necessary to support the activities of the Committee.

(f) The approval of an annual budget for the Committee that is sufficient to carry out the activities set forth in Prop 39 and included herein.

(g) The appointment or reappointment of qualified applicants to serve on the Committee, subject to legal limitations, and based on criteria adopted in the Board's sole discretion as part of carrying out its function under Prop 39.

Section 4. Authorized Activities.

4.1 In order to perform the duties set forth in Section 3.0, the Committee may engage in the following authorized activities:

(a) Receive copies of the District's annual, independent performance audit and annual, independent financial audit required by Prop 39 (Article XIII A of the California Constitution) (together, the "Audits") at the same time said Audits are submitted to the District, and review the Audits.

(b) Inspect District facilities and grounds for which bond proceeds have been or will be expended, in accordance with any access procedure established by the District's Superintendent/President.

(c) Review copies of deferred maintenance plans developed by the District.

(d) Review efforts by the District to maximize bond proceeds by implementing various cost-saving measures.

(e) Receive from the Board, within three months of the District receiving the Audits, responses to any and all findings, recommendations, and concerns addressed in the Audits, and review said responses.

Section 5. Membership.

5.1 Number.

The Committee shall consist of at least seven (7) members appointed by the Board from a list of candidates submitting written applications, and based on criteria established by Prop 39, to wit:

- One (1) student enrolled and active in a community college support group, such as student government.
- One (1) member active in a business organization representing the business community located in the District.
- One (1) member active in a senior citizens' organization.
- One (1) member active in a bona-fide taxpayers association.
- One (1) member active in a support organization for the college, such as a foundation.

- Two (2) members of the community at-large.

5.2 Qualification Standards.

- (a) To be a qualified person, he or she must be at least 18 years of age.
- (b) The Committee may not include any employee, official of the District or any vendor, contractor or consultant of the District.

5.3 Ethics: Conflicts of Interest.

(a) Members of the Committee are not subject to the Political Reform Act (Gov. Code §§ 81000 *et seq.*), and are not required to complete Form 700; but each member shall comply with the Committee Ethics Policy attached as “Attachment A” to these Bylaws.

(b) Pursuant to Section 35233 of the Education Code, the prohibitions contained in Article 4 (commencing with Section 1090) of Division 4 of Title 1 of the Government Code (“Article 4”) and Article 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code (“Article 4.7”) are applicable to members of the Committee. Accordingly:

(i) Members of the Committee shall not be financially interested in any contract made by them in their official capacities or by the Committee, nor shall they be purchasers at any sale or vendors at any purchase made by them in their official capacity, all as prohibited by Article 4; and

(ii) Members of the Committee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to duties as a member of the Committee or with the duties, functions, or responsibilities of the Committee or the District. A member of the Committee shall not perform any work, service, or counsel for compensation where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of the District’s Board of Trustees, except as permitted under Article 4.7.

5.4 Term. Except as otherwise provided herein, each member shall serve a term of two (2) years, commencing as of the date of appointment by the Board. No member may serve more than three (3) consecutive terms. At the Committee’s first meeting, members will draw lots or otherwise select a minimum of two (2) members to serve for an initial one (1) year term and the remaining members for an initial two (2) year term. Members whose terms have expired may continue to serve on the Committee until a successor has been appointed.

5.5 Appointment. Members of the Committee shall be appointed by the Board through the following process: (a) the District will advertise in the local newspapers, on its website, and in other customary forums, as well as solicit appropriate local groups for applications; (b) the Superintendent/President will review the applications; and (c) the Superintendent/President will make recommendations to the Board.

5.6 Removal; Vacancy. The Board, in their exclusive discretion, may remove any Committee member for any reason, including failure to attend two consecutive Committee meetings

without reasonable excuse or for failure to comply with the Committee Ethics Policy. Upon a member's removal, his or her seat shall be declared vacant. The Board, in accordance with the established appointment process shall fill any vacancies on the Committee. The Board shall seek to fill vacancies within 90 days of the date of occurrence of a vacancy.

5.7 Compensation. The Committee members shall not be compensated for their services.

5.8 Authority of Members. (a) Committee members shall not have the authority to direct staff of the District; (b) individual members of the Committee retain the right to address the Board, either on behalf of the Committee or as an individual; (c) the Committee shall not establish sub-committees for any purpose; and (d) the Committee shall have the right to request and receive copies of any public records relating to Measure X funded projects.

Section 6. Meetings of the Committee.

6.1 Regular Meetings. The Committee shall meet at least once a year, but shall not meet more frequently than quarterly.

6.2 Location. All meetings shall be held within the boundaries of the Gavilan Joint Community College District.

6.2 Procedures. All meetings shall be open to the public in accordance with the *Ralph M. Brown Act*, Government Code Section 54950 *et seq.* Meetings shall be conducted according to such additional procedural rules as the Committee may adopt. A majority of the number of Committee members shall constitute a quorum for the transaction of any business of the Committee.

Section 7. District Support.

7.1 The District shall provide to the Committee necessary technical and administrative assistance as follows:

(a) preparation of and posting of public notices as required by the *Brown Act*, ensuring that all notices to the public are provided in the same manner as notices regarding meetings of the District Board;

(b) provision of a meeting room, including any necessary audio/visual equipment;

(c) preparation, translation and copies of any documentary meeting materials, such as agendas and reports; and

(d) retention of all Committee records, and providing public access to such records on an Internet website maintained by the District.

7.2 District staff and/or District consultants shall attend Committee proceedings in order to report on the status of projects and the expenditure of bond proceeds.

Section 8. Reports. In addition to the Annual Report required in Section 3.3, the Committee may report to the Board from time to time in order to advise the Board on the activities of the Committee. Such report shall be in writing and shall summarize the proceedings and activities conducted by the Committee.

Section 9. Officers. The Superintendent/President shall appoint the initial Chair. Thereafter, the Committee shall elect a Chair and a Vice-Chair who shall act as Chair only when the Chair is absent. The Chair and Vice-Chair shall serve in such capacities for a term of one year and may be re-elected by vote of a majority of the members of the Committee.

Section 10. Amendment of Bylaws. Any amendment to these Bylaws shall be approved by a majority vote of the Board.

Section 11. Termination. The Committee shall automatically terminate and disband concurrently with the Committee's submission of the final Annual Report which reflects the final accounting of the expenditure of all Measure X monies.

APPENDIX 5 – Financial and Performance Audits

The California Association of Bond Oversight Committees (CABOC) provided extensive briefings on financial and performance audits during their October 16, 2021 conference. Included in the conference were panel discussion on financial and performance audits. A recording of the conference is available from the CABOC’s website as well as the presentation slides for reference.⁹⁸

[Table A5](#) below outlines some differences and the scope involved with financial and performance audits.

Financial and Performance Audits	
Both audits are conducted in accordance with the Government Auditing Standards issued by the United States Government Accountability Office.	
Type	Scope
Financial ⁹⁹	<ul style="list-style-type: none"> • Audits the bond’s financial statements (cash/financial investments, accrued liabilities for the contracts) • Provides an opinion on whether the statements fairly represent the financial position and are free from material misstatement
Performance ¹⁰⁰	<ul style="list-style-type: none"> • Audits bond monies spent on specific projects • Audits bonds monies spent for construction • Certifies no expenditures for salaries except for construction projects

Table A5. Independent Financial and Performance Audits

⁹⁸ California Association of Bond Oversight Committees, “First CABOC Statewide Conference,” accessed November 26, 2021, <https://www.bondoversight.org/caboc-conference/>.

⁹⁹ California Association of Bond Oversight Committees, “Panel B PowerPoint Presentation PDF (Slide 4),” October 16, 2021, https://www.bondoversight.org/wp-content/uploads/2021/10/ZZ-B-FINAL-CABOC_Conf_2021_Panel_B_reduced.pdf.

¹⁰⁰ Ibid., Slide 5.

APPENDIX 6 – Navigating to Meeting Agendas

Navigating to the posted meeting agenda from the Measure X website homepage is a multistep, multi-click process. The navigation illustration below is to help members of the public identify the websites and webpages used to access the Oversight Committee’s posted agendas.¹⁰¹

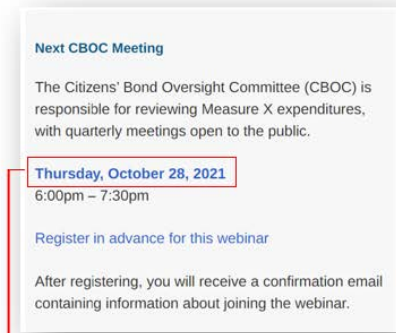


Figure A6-1. Homepage Announcement

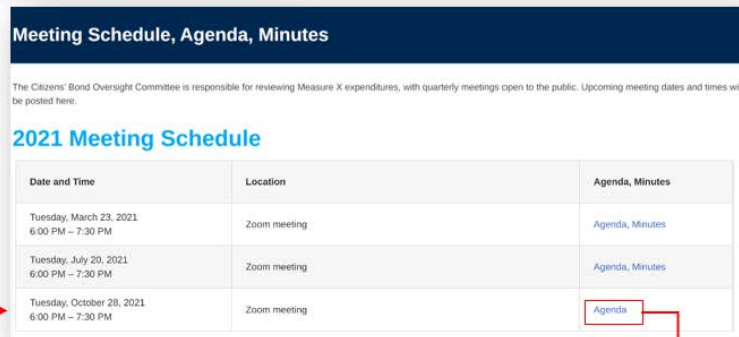


Figure A6-2. Meeting Schedule, Agenda, Minutes

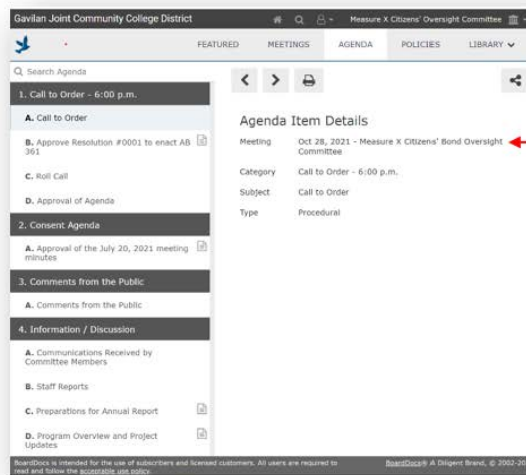


Figure A6-3. BoardDocs Measure X Agenda

¹⁰¹ Gavilan College Measure X Bond, Citizens' Bond Oversight Committee, accessed October 26, 2021, <http://gavilanmeasurex.org/>; Gavilan Joint Community College District, Measure X Citizens' Oversight Committee, accessed October 26, 2021, <https://go.boarddocs.com/ca/gjcccd/Board.nsf/goto?open&id=C2KTND782B96#>.

APPENDIX 7 – Area Community College Audit Reports

Timeliness Methodology

- The Civil Grand Jury used signed, dated reports to construct a comparative timeline with the other community college district reports.
- If the published dates were different between the financial audit and performance audit, the report with the latest date was used.
- To compare Gavilan’s Measure X audit timeliness for the year ending June 30, 2020, the 2020 Financial and Performance Audit reports were pulled from the Gavilan Board of Trustees Budget and Audit Planning Committee meeting held on May 5, 2021.

Source of Timeliness Data

The financial and performance audit reports listed below were reviewed and used to develop the chart at [Table 10](#) above. “District Audit Report Timeliness.” Reports were obtained from each of the Community College Districts within the County of Santa Clara.

2020 – 2021 Financial and Performance Audit Reports

West Valley-Mission Community College District, Citizens’ Bond Oversight Committee, “Documents, 2021, Reports,” accessed November 27, 2021:

- <https://wvm.edu/committees/cboc/Public%20Documents/FY%2020-21%20Measure%20W%20Performance%20Audit.pdf>
- <https://wvm.edu/committees/cboc/Public%20Documents/FY%2020-21%20Measure%20W%20Financial%20Audit.pdf>
- <https://wvm.edu/committees/cboc/Public%20Documents/FY%2020-21%20Measure%20C%20Performance%20Audit.pdf>
- <https://wvm.edu/committees/cboc/Public%20Documents/FY%2020-21%20Measure%20C%20Financial%20Audit.pdf>

2019 – 2020 Financial and Performance Audit Reports

Gavilan College Measure X Bond, Citizens’ Bond Oversight Committee, “Annual Reports,” accessed November 25, 2021:

- <http://gavilanmeasurex.org/wp-content/uploads/2021/10/DRAFT-Measure-X-Audit-Reports.pdf>

Note: The reference below is to access the 2020 Measure X Financial and Performance Audits that were signed and dated by the auditing firm. These were used in the Audit Timeliness Chart at [Table 10](#) to provide a dated report comparison.

MEASURE X BOND PROGRAM: OVERSIGHT SHORTCHANGED

Gavilan Joint Community College District, Board of Trustees Budget and Audit Planning Committee Agenda Item 2. A. “Financial and Performance Audits, Bond Construction Fund (Measure X), June 30, 2020,” accessed November 25, 2021:

- <http://go.boarddocs.com/ca/gjccd/Board.nsf/goto?open&id=C2KTND782B96>.

West Valley-Mission Community College District, Citizens’ Bond Oversight Committee, “Documents, 2020, Reports,” accessed November 27, 2021:

- <https://wvm.edu/committees/cboc/Public%20Documents/FY%2019-20%20Measure%20W%20Performance%20Audit.pdf>
- <https://wvm.edu/committees/cboc/Public%20Documents/FY%2019-20%20Measure%20W%20Financial%20Audit.pdf>
- <https://wvm.edu/committees/cboc/Public%20Documents/FY%2019-20%20Measure%20C%20Performance%20Audit.pdf>
- <https://wvm.edu/committees/cboc/Public%20Documents/FY%2019-20%20Measure%20C%20Financial%20Audit.pdf>

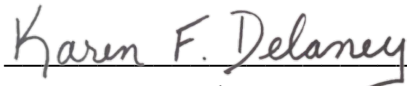
Foothill-Evergreen Community College District, Measure G & C Bonds, Citizens’ Bond Oversight Committee, “Annual Reports and Audit Reports, 2019-2020, Measure C Audit Reports,” accessed November 27, 2021:

- [https://go.boarddocs.com/ca/fhda/Board.nsf/files/BYCURE7849F5/\\$file/Foothill-De_AnzaCCDMeasureCRpt20.pdf](https://go.boarddocs.com/ca/fhda/Board.nsf/files/BYCURE7849F5/$file/Foothill-De_AnzaCCDMeasureCRpt20.pdf)

San José-Evergreen Community College Bond Program Website, Citizens’ Bond Oversight Committee, “Audit Information, Measure X Audit Reports,” accessed November 27, 2021

- <http://cboc.sjebond.com/wp-content/uploads/2021/03/Measure-X-Financial-1920.pdf>
- <http://cboc.sjebond.com/wp-content/uploads/2021/03/Measure-X-Performance.pdf>
- http://cboc.sjebond.com/wp-content/uploads/2020/01/A_06-30-19-2016-General-Obligation-Bonds-Financial-Report.pdf
- http://cboc.sjebond.com/wp-content/uploads/2020/01/A_06-30-19-2016-General-Obligation-Bonds-Performance-Report.pdf
- <http://cboc.sjebond.com/wp-content/uploads/2021/03/2010-Measure-G-Financial-1920.pdf>
- <http://cboc.sjebond.com/wp-content/uploads/2021/03/2010-Measure-G-Performance.pdf>
- http://cboc.sjebond.com/wp-content/uploads/2020/01/A_06-30-19-2010-General-Obligation-Bonds-Financial-Report.pdf
- http://cboc.sjebond.com/wp-content/uploads/2020/01/A_06-30-19-2010-General-Obligation-Bonds-Performance-Report.pdf

This report was **ADOPTED** by the 2021 Civil Grand Jury of Santa Clara County on this 16th day of December, 2021.

Handwritten signature of Karen F. Delaney in cursive script, written over a horizontal line.

Ms. Karen Delaney

Foreperson